

# HOUSE OF REPRESENTATIVES—Wednesday, May 7, 1997

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. SHAW].

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

May 7, 1997.

I hereby designate the Honorable E. CLAY SHAW, Jr. to act as Speaker pro tempore on this day.

NEWT GINGRICH,

Speaker of the House of Representatives.

## PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

We are grateful, O God, that Your word points us in the way of peace and reconciliation in our lives, our communities, and in our world. And just as Your design calls us to be Your people and to do Your will, so too You have given us minds and strength to use in ways that heal the wounds of division in the land and promote justice for every person. Thus we pray, gracious God, for discernment and wisdom in our common tasks, that we will use the abilities You have given us in honor of all and in service to every person. In Your name we pray, amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Jersey [Mr. PASCRELL] come forward and lead the House in the Pledge of Allegiance.

Mr. PASCRELL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## JUVENILE JUSTICE BILL PROMOTES SAFETY IN THE CLASSROOM

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, this week we are honoring this Nation's teachers, those hardworking men and women who under increasingly difficult circumstances train and mold young minds. The work teachers do today will influence those young Americans every day of their lives, and they are to be commended for their dedication.

As my colleagues know, too many of our Nation's schools have become havens for drugs and gangs, endangering our children and our teachers. When we consider the Juvenile Crime Control Act later today, we are going to do something about this problem. Language I was able to incorporate into the legislation with the cooperation and support of the gentleman from Florida [Mr. MCCOLLUM], the chairman, will permit cities and counties to use Federal block grant funds to protect students and teachers from gangs and drugs and violent crime in their schools.

Mr. Speaker, when parents send their children off to school, they should not have to worry about their safety. The same goes for the families of those who teach our children. Sadly, we cannot guarantee their safety, but we can help. We can pass the Juvenile Crime Control Act today.

## IN MEMORY OF REV. DR. ALBERT MOSES TYLER

(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)

Mr. PASCRELL. Mr. Speaker, today I address the House on the passing of a great man, a great American, Rev. Dr. Albert Moses Tyler, who died at 93 years of age in Paterson, NJ.

He was a minister for 69 years, and head of St. Luke's Baptist Church in Paterson for 62 years. He spoke softly about our dignity and human rights but always intensified his efforts to make sure that our civil rights are protected.

We have lost a great American, but his legacy lives on. I try in this House to carry on his great model of principles which he brought forth.

## SUPPORT H.R. 3, JUVENILE CRIME CONTROL ACT

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, the junior high school that I went to in

Athens, GA, had strict discipline. Students were taught to respect each other, to respect teachers, and to respect the institution.

The high school, however, that I went to had a different view of discipline, that is to say, a very spotty record, if any, on it. When I was in 10th grade, a student pulled a gun on another one in a basketball game I was playing in, and then another time a student was shot on the campus. When I was in high school, I had a group of students jump on me and beat me up. Without discipline, students somewhat behaved in a bad fashion.

Currently today teenagers account for the largest portion of all violent crime in America. Offenders under the age of 18 commit more than one-fifth of all violent crime. If this trend continues, we will have a 31 percent increase in juvenile offenders by the year 2010.

H.R. 3 addresses this. It tries to make our school yards and our streets safer from juvenile offenders. I hope that my colleagues will support me in supporting it.

## FAIRNESS IN HIGHWAY FUNDING

(Mr. CLEMENT asked and was given permission to address the House for 1 minute.)

Mr. CLEMENT. Mr. Speaker, I rise today in support of the transportation bill, better known as the ISTEA bill. It is a bill which has brought unprecedented flexibility and authority to local governments and provided our communities with valuable means of intermodal transportation. But there is one problem with the transportation bill: the highway funding formula.

Since the passage of ISTEA in 1991, Tennessee has received a mere 79 cents on the dollar for every dollar contributed to the Federal Highway Trust Fund by State motor fuel users. This formula, based on outdated historic percentages from the years prior to 1991, perpetuates the strength of Northeastern States and does not follow the growth trends of the Sunbelt States like Tennessee.

This nonsense must end this year and a new transportation bill must guarantee a more equitable minimum allocation to all 50 States. Tennessee is the Volunteer State, but we will no longer volunteer unjustly our funds to States with less growth and more roads and rail. Let us bring about equity and fairness to all 50 States and do it this year.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## SAFE SCHOOLS

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KELLY. Mr. Speaker, as Members probably know by now, this week is Teacher Appreciation Week, and we are very grateful for all of them. As a former teacher, I have learned from experience that the best way we can truly appreciate teachers and their students is to make certain that they are provided with the safest possible learning environment.

This week in Congress we are going to begin to work on legislation to ensure safe classrooms by removing violent juveniles. We are going to work to accomplish this by reforming our juvenile justice system.

But this will only be the first step in a series we are going to take in this Congress to reduce crime in our schools and in our communities. The next step will be through strong prevention programs when we move to reauthorize the Juvenile Justice and Delinquency Act this summer.

We need safe classrooms for teachers and for students. We can accomplish this through our focus on both the areas of prevention and punishment. I ask for all of my colleagues to join me in support of safer schools when we pass both the Juvenile Crime Control Act and reauthorize the Juvenile Justice and Delinquency Act.

## CONDOMS SUBJECT TO MILITARY SCRUTINY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, even though the Pentagon is cutting costs and talented officers are being forced out, the Pentagon spent \$90,000 last year to study condom preference and the failure rates of condoms in the military.

If that is not enough to kill your rabbit, the Pentagon still does not know if a Patriot missile can stop the Silk-worm, but they know for sure which condom can save the Republic. What is next, Mr. Speaker, a \$100,000 study to find out if soldiers prefer boxer shorts over briefs? If women in the military prefer Maidenform over Wonder Bra?

Beam me up. I say with this study the Pentagon has reached the apex of their condominium. There is no budget crisis in the District of Columbia. There is a common sense crisis in the District of Columbia.

I yield back the balance of any heretofore untested condoms still subject to military scrutiny.

## NUCLEAR WASTE BILL

(Mr. GIBBONS asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, the nuclear waste bill currently before the House is a bill that will destroy the environment and endanger the lives of our constituents. In a letter to my office, Deputy Secretary of Energy Charles B. Curtis stated the following: "If S. 104 and its companion bill, H.R. 1270, were presented to the President in its current form, the President would veto the bill." Mr. Curtis goes on to say: "This bill would provide no practical opportunity to designate an alternative to Yucca Mountain as an interim storage site because it does not provide enough time to designate, license and construct a facility at another site by the year 2002."

The situation is very clear. This bill could potentially devastate our districts, the environment in our districts, and will be vetoed by the President. Is it really worth voting to destroy the environment in order to bail out the nuclear power companies on a bill that has no chance of becoming law?

## FUNDING FOR WIC

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, the Committee on Appropriations has rejected the Clinton administration request for WIC funding. What a surprise.

The WIC Program is one of the most successful Federal programs that has ever been created. The WIC Program reduces the incidence of low-birth-weight babies, infant mortality and anemia. This is a program that serves some of the most at-risk infants in the country, many of whom are Latino or Afro-American babies.

The Republicans say we do not need to spend that money on these needy children. Instead, the Republicans tell us we need a capital gains tax cut which will put billions of dollars in the pockets of their rich friends. This is crazy. First they try to cut school lunches to hungry children. Now they literally want to take milk away from hungry infants. For shame.

## SUPPORT HIGHWAY TRUST FUND FAIRNESS ACT

(Mr. SANFORD asked and was given permission to address the House for 1 minute.)

Mr. SANFORD. Mr. Speaker, ISTEA will be reauthorized this year. ISTEA sets the funding formula by which gas taxes are spread across our country, and I think with it will come the chance to make a real stand for the simple theme of fairness.

Fairness is the most fundamental of all American precepts. It is the idea on which the Revolutionary War was

built. It was the idea behind the Boston Tea Party. It was the idea behind the civil rights movement. Yet right now with our gas tax formula, we have a formula that leaves South Carolina losing \$50 million a year, California losing over \$200 million a year, Florida losing over \$200 million a year, while a handful of States up in the Northeast receive disproportionate amounts of money. That is not fair.

The gentleman from Oklahoma (Mr. LARGENT), the gentleman from Tennessee (Mr. CLEMENT), and myself have a Highway Trust Fund Fairness Act which would address this inequity. There are a number of other proposals to address this inequity. The point that I think we all need to remember is that it needs to be addressed and it needs to be fixed.

## FAIRNESS IN BALANCED BUDGET PROCESS

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, I regard it as an outrage that more and more pressure is being placed on the Bureau of Labor Statistics to change their approach of determining how the Consumer Price Index, the CPI, is being determined, with the goal of lowering it. Frankly, this is nothing more than a cheap, back-door way of balancing the budget on the backs of the elderly by cuts in Social Security, by not giving them an increase which honestly reflects the rate of inflation.

In the State of Vermont, in my view, not only is the current CPI not too high, it is too low. Elderly people are more dependent upon health care and prescription drugs than the general population, and the cost of health care is rising much faster than the general rate of inflation.

Mr. Speaker, in Vermont and throughout this country, millions of elderly people are trying to survive on \$7,000 or \$8,000 a year. Let us not cut their Social Security checks and make their lives even more difficult. Let us move toward a balanced budget, but let us not do it on the backs of the weakest and most vulnerable Americans, including our senior citizens.

□ 1115

## NO LEARNING TAKES PLACE WITHOUT DISCIPLINE AND SAFETY

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, during Teacher Appreciation Week, I hope everyone in Congress will support our efforts to make schools safe for teachers and children.

As a teacher for 24 years, I know firsthand that without safety and discipline in the classroom, no teacher can teach and no student can learn.

Congress is examining what works and what is wasted in the area of safety and discipline as part of our ongoing Education at the Crossroads project.

I hope everyone in Congress will vote for the Juvenile Crime Control Act this week. This bill will reform the juvenile justice system, it will make violent juvenile offenders accountable for their actions. It will help keep violent juveniles out of our classrooms and off our playgrounds. These steps will help us fulfill our moral obligation to provide our children with a good education so that they will have the tools to achieve the American dream.

#### EDUCATIONAL EXCELLENCE

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to urge my colleagues to support educational standards of excellence for every child in this Nation. I know setting House standards is the best way to achieve educational excellence. Our students are working hard, and their teachers and parents strive to give them the support that they need. We must give them the tools to make the most of their God-given ability.

Last week we dedicated a memorial to this century's greatest President, Franklin Delano Roosevelt. It is fitting that we honor FDR as a leader who brought this country back from our worst economic calamity ever and brought us to the brink of greatness and our triumph over global tyranny.

One of FDR's guiding principles is captured by his observation that we will all be better off when we all are better off.

As the 105th Congress considers measures to strengthen education in this country, we must heed FDR's words and expand educational opportunities to all the children in America.

#### THERE IS NO ACCURATE WAY TO MEASURE CPI

(Mr. PAUL asked and was given permission to address the House for 1 minute.)

Mr. PAUL. Mr. Speaker, using the CPI to measure cost of living adjustments is nothing more than a feeble attempt to measure dollar depreciation. This is no more accurate than using stock and bond prices to measure inflation.

I have a lot of reservations and think we are making a serious mistake by delivering to the Bureau of Labor Statistics the authority to manipulate the CPI numbers. This is ducking our congressional responsibility, and it is a back-door way to raising taxes and ma-

nipulating the entitlements. I think, most importantly, it fails to recognize the basic flaw in our system, and that is the monetary policy and a depreciating of currency.

But we have a lame duck President quite willing to accept the responsibility and to accept more executive legislative powers from the Congress, something the Constitution does not authorize. But here we have a President quite willing to, behind the scenes, raise taxes and manipulate the cost of living.

The truth is there is no accurate way to measure the cost of living index.

#### EXPRESSION OF ADMIRATION FOR LT. GOV. JOSEPH E. KERNAN

(Ms. CARSON asked and was given permission to address the House for 1 minute.)

Ms. CARSON. Mr. Speaker, I want to take a brief moment to share my pride and admiration for our Indiana Lieutenant Governor Joe Kernan.

Today, May 7, marks the 25th anniversary when Joe Kernan was shot down by the enemy over North Vietnam and held a prisoner of war for the succeeding 11 months.

Joe Kernan, a 1968 graduate of Notre Dame, was sent to Vietnam in 1972 aboard the USS *Kitty Hawk*, never set foot in Vietnam until his plane, where he was a navigator, was shot down and he was taken a prisoner of war. He was a prisoner of war for 11 months, he was repatriated in 1973 and continued on active duty with the Navy until 1974, December. The Combat Action Ribbon, two Purple Heart medals and the Distinguished Flying Cross are among the military awards that the Lieutenant Governor has received.

Mr. Speaker, he is an ordinary man. He worked for Procter and Gamble in Cincinnati. He moved to South Bend where he became mayor and the city's controller. He was elected mayor in 1987, served there 9 years, longer than any other mayor in South Bend's history, and in 1996 he and Gov. Frank O'Bannon were elected to the top posts in Indiana's government. Joe and his wife are natives of South Bend.

I just wanted to say today that Joe Kernan exemplifies what the court envisioned in that he is at the home of the brave at the land of the free.

#### IMPEACHMENT: A POLITICAL REMEDY TO A POLITICAL PROBLEM

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute.)

Mr. BARR of Georgia. Mr. Speaker, in reviewing what we can do with regard to activist Federal judges who usurp the authorities of the legislative or executive branches, I was impressed by an article written on March 20 in the Washington Times by Paul Craig

Roberts who said, there is no clearer, sounder, and firmer grounds for impeachment of judges than the violation of the constitutional oath, and there is no clearer, sounder, or firmer evidence that this oath has been violated than when judges violate the separation of powers and usurp the political functions of government. This has been understood by everyone since the day the Constitution was written.

As one professor noted, in the constitutional design of the Founding Fathers, especially Alexander Hamilton's discussion of the Federal judiciary in the Federalist Papers, the ultimate recourse in the event the judiciary usurps legislative powers is impeachment by Congress. This has been thoroughly understood in every period of our history.

Writing in the Harvard Law Review in 1913, Wrisley Brown, whose investigation led to the impeachment of Judge Robert W. Archibald, said impeachment is a political remedy to a political problem. It is directed against a political offense, it culminates in a political judgment, it imposes a political forfeiture, it is a political remedy for the suppression of a political evil with wholly political consequences.

#### PERSONAL EXPLANATION

Ms. HOOLEY of Oregon. Mr. Speaker, for the record, on rollcall vote 103 I mistakenly pressed "aye" instead of "no." My vote should have been recorded as a "no."

#### DUNN AMENDMENT TO H.R. 3, JUVENILE CRIME CONTROL ACT OF 1997

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mr. Speaker, we have an opportunity this week to do something about the safety of our children's schools. Every day children go to school in fear, not because they have a math test, but because the child next to them may harm them.

Tomorrow, I will offer an amendment to H.R. 3, the Juvenile Crime Control Act of 1997, to make our schools safer.

My amendment would take Megan's Law one step further. It would require States to submit a plan to the Attorney General, describing a process by which parents would be notified of a juvenile sex offender's enrollment in the elementary school or secondary school their child attends. This amendment strengthens Megan's Law by forewarning parents about juvenile sex offenders who may have fallen through the cracks even with community notification.

For example, some children attend schools outside their communities.

Parents in this situation may be unaware that their son or daughter is attending school with a juvenile sex offender. My amendment would forewarn these parents as well as those whose children attend schools within their communities.

We cannot let what happened to Megan Kanka happen again. Not in any community, especially not on a playground during recess.

#### TODAY IS NATIONAL TOURIST APPRECIATION DAY

(Mr. FARR of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR of California. Mr. Speaker, as all those in the gallery may not recognize, but today is National Tourist Appreciation Day, and this week is National Tourism Week. It is time to reflect that travel and tourism in America is our largest service export industry, the second largest employer in the United States and the third largest in retail sales. In 1996, tourism in the United States generated an estimated \$467 billion in total expenditures. It directly employs 6.6 million Americans and indirectly employs 8.9 million.

In 1995, 236,000 new jobs were created as a direct result of domestic and international tourism in the United States. American travelers spent alone \$685,000 per minute on travel and tourism, and international travelers spent \$151,000 per minute in the United States.

In my district, travel and tourism brings in \$1.5 billion a year and more than 20,000 jobs. This week more than 3,000 communities across the United States will participate in recognizing the importance of travel and tourism. I encourage my colleagues to do the same.

#### BALANCING THE BUDGET, CUTTING TAXES

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, what if Americans were to ask this question: "What are the politicians in Washington up to these days?" If you were to say, "Oh, they are doing exactly what we told them to do, balancing the budget, cutting our taxes, putting our fiscal house in order," if you were to say that, who would believe you?

It is time to believe. After 28 years of budget deficits, this Congress has an agreement with the President to balance the budget by 2002, if not later. Four years after the largest tax increase in our history, this Congress has an agreement with the President to change direction and cut taxes.

A lot of folks on the other side cried hysterically that we could not balance

the budget and cut taxes at the same time. But this agreement does just that. This agreement is the first step in a new direction, government living within its means and tax relief for working families.

Let us take this first step and pass this historic balanced budget agreement. Let us do it for our kids.

#### FUNDING FOR WIC PROGRAM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, as we begin to work out the details of last week's balanced budget agreement, we need to remember that the choices that we make in this body reflect the values of our Nation. Next week this Congress will have an opportunity to cast an important vote about our budget priorities when we vote on funding for the Women, Infants and Children program.

Will this Congress vote to take milk, cereal, and formula off the breakfast tables of needy families, or will we vote to give this program the additional \$38 million in funding that it needs to prevent 180,000 women and children from being removed from the WIC Program?

As we watch this budget agreement take shape, we need to vote to uphold the values of this Nation. We can start by fully funding the WIC Program, because it is a program that works. For every dollar spent, we save \$3.50. It is a program that provides assistance to some of the most vulnerable members of our society. Democrats are united in our opposition to WIC reductions, and I urge my Republican colleagues to join us in voting to restore the full amount of the President's request for WIC.

#### HIGHWAY FUNDING

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute.)

Mr. HUTCHINSON. Mr. Speaker, I rise to talk about the fairness in the way that we distribute our highway trust funds in America. The State of Arkansas is geographically centered in the heart of America. As this country expands its trade with our neighbors to the north and to the south, we will need to have adequate highways in order to accommodate this trade and to build vital arteries to connect us with the rest of the Nation.

More important than building a network for commerce, it is important that we have safe highways upon which Arkansas families can drive. There is a 43-mile strip of mountainous highway in my district that has in itself accounted for more than 1,500 automobile accidents in the last 9 years. It has been called one of the most dangerous roads in the Nation.

Clearly it is time that Arkansas taxpayers receive their fair share of highway funding. We are part of that group called "donor States," meaning that we pay more in highway taxes than we receive back. Arkansas is 16th in the Nation for the number of interstate highway miles. It places 41st in the amount of highway funding it receives.

I understand that we need a national highway network, but the step 21 proposal that I support provides a more equitable and fair distribution in the way we distribute our highway funds. For that reason, I am the 100th Member to support it and I ask for everyone to join with me in that.

#### ISTEA FUNDING EQUITY

(Ms. BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BROWN of Florida. Mr. Speaker, the time is right for funding equity. Mr. Speaker, I rise to urge my colleagues to support funding equity when the House considers the ISTEA reauthorization bill. According to a GAO report, the current funding formula used to distribute billions of transportation funds is flawed.

My State of Florida is a perfect example of what is wrong with the formula. Florida is the fourth most populated State, third in the number of automobiles on the road, third in the number of automobiles miles traveled, third in the amount of money that our citizens contribute to the Federal Highway Trust Fund. Yet, Florida's average return on each dollar has been 79 cents since 1956, 45th in the Nation.

□ 1130

Under the fourth year of ISTEA, Florida will drop to 77 cents for every dollar, 46th in the Nation. The ISTEA reauthorization bill must include a formula that is based on current reasonable and appropriate factors.

#### JUVENILE CRIME

(Mr. ADERHOLT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADERHOLT. Mr. Speaker, as we consider this week the issue of juvenile crime and the ramifications that it has on our schools, I would like to express my concern about this important issue. By the year 2010, there will be a 31-percent increase in the number of juveniles in our country. Unfortunately, the problem of juvenile crime is predicted to increase drastically as well unless we act now.

Kids today commit crimes because they know they can get away with it. A juvenile that commits a cold blooded murder can be back on the street in most cases in less than 1 year.

We must realize that juveniles can be just as dangerous as adults and begin to treat them accordingly. The system must be reformed.

Kids in America today need the support of teachers and families and churches so that they can know the difference between right and wrong, and they need to know that a crime of any sort will not be tolerated regardless of age. Our children and our children's children deserve to have the same environment to learn that all of us had growing up.

#### SO-CALLED BALANCED BUDGET AGREEMENT

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, I just want to comment briefly on the so-called balanced budget agreement that was reached between the President and the House and Senate Republican leadership last week. I say so-called because it is really in the nature of an agreement to agree. There are many things that are not filled in there, many questions that are not answered that we just do not know yet.

But one thing that is clear is that \$90 billion will have to be cut for the next 5 years from nondefense discretionary spending. We do not know how it is going to be cut, and we will not know that because those decisions will be made year by year by the Committee on Appropriations. But out of \$290 billion, for everything the Government spends other than on entitlements, interest on the national debt and the military, for housing, for education, for transportation, for law enforcement, crime prevention, Head Start, issuing passports, research and development, everything that we think of when we think of what the Government does, other than entitlements and the Armed Forces, we are going to have to take \$90 billion out of what is necessary to maintain the current level of services. That is going to be a major hit on our population. I simply urge caution.

#### HIGHWAY FUNDING SHOULD BE A FAIR DEAL FOR STATES

(Mr. BRADY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADY. Mr. Speaker, on this day in 1626 a wise Dutchman named Peter Minuit traded \$24 of trinkets for the island of Manhattan. It is commonly agreed that Minuit received the better end of that deal.

When it comes to highway funding, however, a lot of taxpayers find themselves on the opposite end of the situation, on the bad end of the deal. For every dollar we send to Washington for

highway funding, we receive back less than 78 cents. Twenty-five other States find themselves in the same position. Even though Federal law says we ought to receive 90 cents for every dollar, 18 States do not even receive that. Donor States are fast growing.

In Texas, we are a large State, very diverse, big infrastructure needs, and we are the entryway for our trade with America's largest partner, Mexico. This year as we address transportation issues, let us make sure we are giving taxpayers the fair deal they deserve.

#### SUPPORT WIC FUNDING

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I rise to express my objection to the proposed cuts in the WIC Program contained in the supplemental appropriations bill that is being considered by the House Committee on Appropriations.

The women, infants, and children's program, known as WIC, is widely known as one of the most effective and cost-effective programs this Government operates. By providing nutritious food to pregnant women and infants, the WIC Program helps to ensure that babies who are born to low-income women get the full nutrition they need to develop and to grow properly. It is estimated that every dollar invested in WIC saves at least \$3.50 in future expenditures on Medicaid and other programs.

The administration recommended \$76 million, but it has been cut to \$38 million in the supplemental bill, which means that 180,000 children and pregnant women will go unserved and hungry.

Now, we should be ashamed of ourselves for taking the food literally out of the mouths of babes, and I am pleased to know that my colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA], plans to offer an amendment to restore the important funding, and I shall certainly be supporting that. The richest country in the world cannot let its vulnerable citizens go without food for lack of political backbone, and I urge the support of my colleagues.

#### WIC FUNDING

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, the gentlewoman from New York who just spoke talked about cuts in the WIC Program, and I think it is time that we set the record straight.

Funding for the WIC Program in the current fiscal year is at \$3.7 billion, the

highest level ever spent for this very important program. Beyond that, we have added \$38 million in additional funding to try to ensure that all of those people, women, infants, and children, get the food that they need throughout the rest of this fiscal year. People in the administration who run these programs say \$38 million is enough to cover this current fiscal year.

I would also add that there is about \$100 million left over from prior year funding for the WIC Program, and any suggestion that Congress is cutting the WIC Program simply is not true. We are increasing the amount of money in the supplemental appropriation bill that will be on this floor next week by \$38 million for the WIC Program.

#### FUNDING AND JUVENILE JUSTICE

(Mr. BLAGOJEVICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAGOJEVICH. Mr. Speaker, in many communities across our country, people are living in Hobbesian states of nature where life is nasty, beastly, brutish and, all too often, very, very short. The reason is that there is a dramatic rise in juvenile crime across this country.

The number of homicides committed by juveniles increased five times the rate of homicides committed by adults. Arrests for juveniles committing violent crimes will more than double during the next 15 years.

The need to address this problem clearly requires a comprehensive approach, yet the juvenile justice bill that is being attempted to be passed here in Congress only provides money for 12 States to address this problem, 12 States that include Wyoming and Vermont.

In America, Mr. Speaker, one-third of juvenile crimes occur in four cities: in Detroit, Los Angeles, New York, and Chicago. Yet under this bill, while Wyoming and Vermont receive funding to address juvenile crime, cities like Detroit, Chicago, and Los Angeles receive not a dime. It seems to me, Mr. Speaker, if we are going to address juvenile crime in a comprehensive way, we ought to apply our funding from sea to shining sea and do it in the places where juvenile crime occurs.

#### H.R. 1500 HURTS UTAH EDUCATION

(Mr. CANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANNON. Mr. Speaker, I rise today regarding H.R. 1500, a bill introduced last week by the gentleman from New York, to designate 5.7 million acres in Utah, almost all of it in my district, as wilderness.

Within the 5.7 million acres in H.R. 1500 are more than half a million acres of school trust lands, and those are lands that are given to Utah in statehood to support our schools.

By surrounding these school trust lands with wilderness, H.R. 1500 would dramatically hurt their value, hurting Utah schools. The fact is, there is not one word in H.R. 1500, not one, that would protect the value of Utah's school trust lands either by trading the lands out or by providing cash value. That is why the Utah State School Board, Utah PTA, the Utah school superintendents and Utah Education Association all oppose H.R. 1500 as written.

The sponsor says he does not want to hurt Utah's school children, but that is exactly what H.R. 1500 does.

#### WIC FUNDING

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, I just wanted to contradict what my colleague from Ohio on the Republican side just said about the WIC Program. The bottom line is that the \$76 million in supplemental funds are needed for the WIC Program.

The information submitted by 50 States to the Agricultural Department in early April specifically says that they will have to drop, many of those States will have to drop women, infants, and children from WIC before the end of the fiscal year if no supplemental funding is provided. And the documents that these States filed with the Agriculture Department in early April basically took into account all unspent funds from fiscal year 1996.

The proposed \$76 million supplemental funding requested by the administration takes these funds into account. So it is simply not true that there is carryover money that is going to be available to make up for this difference. When we are giving these estimates and we are saying that we need the \$76 million extra, it takes into account those carryover funds.

I would point out, Mr. Speaker, that these estimates in these reports and the requests for this additional funding in many cases is coming from States governed by Republican Governors.

#### TEACHER APPRECIATION WEEK AND JUVENILE CRIME

(Mr. SESSIONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SESSIONS. Mr. Speaker, this is Teacher Appreciation Week, and these hard-working individuals deserve to be recognized for their outstanding effort.

America's teachers provide an essential ingredient to the success and fu-

ture of this country. Despite the commitment and dedication of these people, there is a pressing issue looming over our classrooms, and that is juvenile violence. Juvenile violence and crime is a constant threat to the safety of both students and teachers alike. In 1996, Texas authorities reported that of the 123,218 violent offenses committed statewide, 6 percent of these were committed by juveniles, and they resulted in the juvenile arrests of these people.

This problem must be remedied, not only in the 5th District of Texas, but across America. I am supporting the juvenile crime bill, one that will ensure that teachers will have a safe environment to teach and the students will be in a safe and secure classroom, one that is free of fear.

I think that we all agree that there is enough obstacles waiting for our children in their adult lives. I think we must make our childhood safe for those children and open to learning.

#### FUNDING FOR WIC

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me talk about the ABC's of a mother's love. As we celebrate Mother's Day this week, let me tell my colleagues about women and infants and children, the WIC Program, which is facing a drastic cut. It is a shame that in the Committee on Appropriations, Republicans voted 28 to 24 to not give the \$78 million needed to fund and to help mothers love their children. It is a shame as we speak that 180,000 women, infants, and children are falling off the rolls every single day.

The \$38 million is not enough. The ABC's of a mother's love is to provide for those children. Those mothers dependent on the WIC Program to help their infants and children are now being deprived with this budget, but as well with the \$38 million, that is not enough.

We need full funding for the WIC Program to show a mother's love. In tribute to mothers this Mother's Day, let us give full funding, as Democrats want, for women, infants and children, which is what America stands for.

#### CONGRATULATING SILVER CHARM

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, sports enthusiasts around the world were treated to a stunning race Saturday during the 123d Kentucky Derby. Silver Charm raced neck and neck with Captain Bodgit from midstretch to the wire, with Silver Charm winning by a head.

Not only was this a thrilling contest, it was also noteworthy that Silver Charm and Captain Bodgit are both Florida-bred horses, born and trained in the rich horse country surrounding Ocala, my hometown. Silver Charm is a product of Dudley Farm in Ocala, and Silverleaf Farm in Ocala is home for the horse that sired Silver Charm, Silver Buck. In addition, Captain Bodgit is a product of Marion County, bred at Ocala's Still Lake Farm.

This was the first Run for the Roses victory for a Florida horse since Unbridled won in 1990. Florida stands second only to Kentucky in breeding Derby horse winners.

Mr. Speaker, speaking for my fellow citizens from Ocala, I know that we are honored but not surprised that an Ocala horse would place first and second in the Kentucky Derby. I look forward to seeing how the Florida horses fare in the Preakness.

□ 1145

#### SUPPORT THE PRESIDENT'S SUPPLEMENTAL REQUEST FOR THE WIC PROGRAM

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, they say a word to the wise is sufficient. Why, then, do we not get the message here in Congress when we are told over and over again the importance of the care that we give to our children in their earliest moments of life? It is hard to believe, with all the new information we have, why the Committee on Appropriations voted last week to reduce the President's supplemental request for the WIC Program, the program for women, infants, and children, by 50 percent, cutting \$38 million from the budget.

That money is really not nearly enough anyway for WIC to serve those who are currently eligible. Even at this \$38 million supplemental funding level, more than 180,000 women, infants, and children who presently survive because of WIC will lose this life-sustaining program. Some States, including my own State of California, are already moving to remove people from the WIC Program. The program pays for itself. Indeed, it is an investment. The GAO has reported that each dollar spent on WIC saves us \$3.50 in expenditures for Medicaid and SSI for disabled children and other programs.

As we prepare for Mothers Day, as families across the country set the table to honor our mothers, let us have a place at the table for the women, infants, and children of America who are poor. Support the President's supplemental request.

# REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 900

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 900.

The SPEAKER pro tempore (Mr. SHAW). Is there objection to the request of the gentleman from Ohio?

There was no objection.

# PROVIDING FOR ACCEPTANCE OF STATUE OF JACK SWIGERT OF COLORADO IN NATIONAL STAT- UARY HALL

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the concurrent resolution (H. Con. Res. 25), providing for acceptance of a statue of Jack Swigert, presented by the State of Colorado, for placement in National Statuary Hall, and for other purposes.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Ms. KILPATRICK. Mr. Speaker, reserving the right to object, will the gentleman from California kindly state the purpose of the concurrent resolution?

Mr. THOMAS. Mr. Speaker, will the gentlewoman yield?

Ms. KILPATRICK. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, House Concurrent Resolution 25 is a resolution to nominate and dedicate the statue of Jack Swigert to represent the State of Colorado in Statuary Hall. The resolution was introduced by the honorable gentleman from Colorado [Mr. DAN SCHAEFER], for the Republican delegation of Colorado. The resolution provides for a ceremony in the Capitol Rotunda to commemorate the occasion of the dedication.

As most people know if they have ever roamed the Capitol, there are a number of statues located in important rooms in the Capitol. Most of these statues emanate from the ability of each State to send two statues representing distinguished people in the history of the State. Colorado had sent only one. That was Dr. Florence Sabin. If the name is familiar in terms of medicine, and it was an excellent choice as a statuary representative for Colorado.

Similarly, the dedication and statue that we are offering in this resolution is a wise choice on the part of Colorado.

The dedication ceremony for the statue on May 22, 1997, at 11 a.m. will recognize Jack Swigert, native of Denver, a U.S. Air Force pilot, a recipient in 1970 of the Presidential Medal for

Freedom, the command module pilot of the Apollo 13 mission, and an elected Representative to the House of Representatives from Colorado.

Unfortunately, Jack Swigert was not able to assume his position, and in a special election, the honorable gentleman from Colorado [Mr. DAN SCHAEFER] was elected to replace him. So it is especially noteworthy that the gentleman sponsoring the resolution was the gentleman who had the honor of replacing Jack Swigert.

Mr. Speaker, I will offer an amendment, when the gentlewoman withdraws her objection, which was passed by the committee when the resolution was considered.

Ms. KILPATRICK. Mr. Speaker, I thank Chairman THOMAS for that explanation.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, will the gentlewoman yield?

Ms. KILPATRICK. I yield to the gentleman from Colorado.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I rise today in celebration of Jack Swigert and this concurrent resolution, House Concurrent Resolution 25, which does provide for the acceptance of a statue of Mr. Swigert presented by the people of the State of Colorado for placement in National Statuary Hall.

I, along with Colorado citizens, anticipate a very moving and wonderful event for the unveiling of our second statue in the U.S. Capitol Rotunda. This tribute has particular significance to me. As some Members may know, I came to Congress, as the gentleman from California [Mr. THOMAS] indicated, in a special election in the spring of 1983, and this special election was necessary because Jack Swigert died before being sworn in as the first elected Representative in the Sixth District of Colorado. I am honored to follow in his footsteps and am excited to be part of this historic event, recognizing his contributions to both the State and the Nation.

Jack was born in Denver and excelled in both academics and athletics. After graduating from the University of Colorado at Boulder, he joined the U.S. Air Force and went on to log over 2,900 hours of flight with the Air Force, the Air National Guard, and NASA. Then in 1970 he served as command module pilot of the famed Apollo 13 mission, the one that blew a hole in its side and had to circle the Moon and came back and landed.

After he did do that, he got into politics and decided to run for Congress in 1982. It was a successful campaign. I can remember nominating him to this particular position.

This is sad simply because before he could actually take office, he passed away on December 27, 1982, and, of course, we all wanted him to at least be here long enough to take the oath of

office after all of the things that he had been through.

It is clear that Jack exemplified the true American spirit. He was a competitor, he was an achiever, he was a pioneer in his field. It is with great pleasure that I take part in honoring his spirit by accepting this statue. I thank so much the Lundeen brothers who did the sculpturing, and thank the Colorado Legislature and the Jack Swigert Memorial Commission, and all my colleagues in Colorado and in the congressional delegation, for all the work we have done.

I look forward to May 22, when we will be able to celebrate the fruits of that labor. I thank very much the gentlewoman for yielding, and I thank the gentleman from California [Mr. THOMAS] for moving so quickly on this resolution.

Mr. THOMAS. If the gentlewoman will continue to yield, Mr. Speaker, I would like to take this time to briefly explain the amendment that we will shortly consider when the gentlewoman withdraws her objection.

The amendment removes section 2 of the resolution and makes a technical correction in the title. As is customary with these resolutions, section 2 of the resolution, as introduced, requested that 6,555 copies of a transcript of the ceremony be printed for use by the House of Representatives and the Senate. It was to be paid for with taxpayers' funds.

The gentleman from Colorado [Mr. DAN SCHAEFER], the sponsor of the resolution, requested that this printing request be removed from the resolution, and the amendment that we are offering does that. I just want to note that pursuant to the letter of the gentleman from Colorado, the reason we are removing the taxpayer-funded documents is that there will be a memorial document printed, but any costs associated with that memorial document will be paid for with private funds, rather than public funds. That money will come from the Jack Swigert Memorial Commission.

I thank the gentlewoman.

Ms. KILPATRICK. Mr. Speaker, with that explanation from Chairman THOMAS, as well as the gentleman from Colorado [Mr. DAN SCHAEFER], I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

## H. CON. RES. 25

*Resolved by the House of Representatives (the Senate concurring), That (a) the statue of Jack Swigert, furnished by the State of Colorado for placement in National Statuary Hall in accordance with section 1814 of the Revised Statutes of the United States (40 U.S.C. 187), is accepted in the name of the United States, and the thanks of the Congress are tendered to the State of Colorado*

for providing this commemoration of one of its most eminent personages.

(b) The State of Colorado is authorized to use the rotunda of the Capitol on May 22, 1997, at 11 o'clock, ante meridiem, for a presentation ceremony for the statue. The Architect of the Capitol and the Capitol Police Board shall take such action as may be necessary with respect to physical preparations and security for the ceremony.

(c) The statue shall be displayed in the rotunda of the Capitol for a period of not more than six months, after which period the statue shall be moved to its permanent location in National Statuary Hall.

SEC. 2. The transcript of proceedings of the ceremony shall be printed, under the direction of the Joint Committee on the Library, as a House document, with illustrations and suitable binding. In addition to the usual number, there shall be printed 6,555 copies of the document, of which 450 copies shall be for the use of the House of Representatives, 105 copies shall be for the use of the Senate, 3,500 copies shall be for the use of the Representatives from Colorado, and 2,500 copies shall be for the use of the Senators from Colorado.

SEC. 3. The Clerk of the House of Representatives shall transmit a copy of this concurrent resolution to the Governor of Colorado.

#### AMENDMENT OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer a committee amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS: Page 2, strike out lines 11 through 20 (and redesignate accordingly).

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. THOMAS].

The amendment was agreed to.

The CHAIRMAN. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

#### TITLE AMENDMENT OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. THOMAS: Amend the title so as to read: "Concurrent resolution providing for acceptance of a statue of Jack Swigert, presented by the State of Colorado, for placement in National Statuary Hall."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 25.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### EXPRESSING THE SENSE OF CONGRESS REGARDING THE CONSUMER PRICE INDEX

The SPEAKER pro tempore. The unfinished business is the question of sus-

pending the rules and agreeing to the resolution, House Resolution 93.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SOUDER] that the House suspend the rules and agree to the resolution, House Resolution 93, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 16, not voting 18, as follows:

[Roll No. 105]

#### YEAS—399

Abercrombie	Danner	Harman
Ackerman	Davis (FL)	Hastert
Armedy	Davis (IL)	Hastings (FL)
Bachus	Davis (VA)	Hastings (WA)
Baessler	Deal	Hayworth
Baker	DeFazio	Hefley
Baldacci	DeGette	Hefner
Ballenger	Delahunt	Herger
Barcia	DeLauro	Hill
Barrett (NE)	DeLay	Hilleary
Barrett (WI)	Dellums	Hilliard
Bartlett	Deutsch	Hinchey
Barton	Diaz-Balart	Hinojosa
Bass	Dickey	Hobson
Bateman	Dicks	Hoekstra
Bentsen	Dingell	Holden
Bereuter	Dixon	Hooley
Berman	Doggett	Horn
Berry	Dooley	Hostettler
Bilbray	Doolittle	Houghton
Billakis	Doyle	Hoyer
Bishop	Dreier	Hulshof
Blagojevich	Duncan	Hutchinson
Bliley	Dunn	Hyde
Blunt	Ehlers	Inglis
Boehlert	Ehrlich	Istook
Boehner	Emerson	Jackson (IL)
Bonilla	Engel	Jackson-Lee
Bonior	English	(TX)
Bono	Ensign	Jefferson
Borski	Eshoo	Jenkins
Boucher	Etheridge	John
Boyd	Evans	Johnson (CT)
Brady	Everett	Johnson (WI)
Brown (CA)	Ewing	Johnson, E. B.
Brown (FL)	Farr	Johnson, Sam
Bryant	Fattah	Jones
Bunning	Fawell	Kanjorski
Burr	Fazio	Kasich
Burton	Filner	Kelly
Buyer	Flake	Kennedy (MA)
Callahan	Foglietta	Kennedy (RI)
Calvert	Foley	Kennelly
Camp	Ford	Kildee
Canady	Fowler	Kilpatrick
Cannon	Fox	Kim
Capps	Frank (MA)	Kind (WI)
Cardin	Franks (NJ)	Kingston
Carson	Frelinghuysen	Kleczka
Castle	Frost	Klink
Chabot	Furse	Klug
Chambliss	Gallegly	Knollenberg
Chenoweth	Ganske	Kucinich
Christensen	Gedensson	LaFalce
Clayton	Gekas	LaHood
Clement	Gephardt	Lampson
Clyburn	Gibbons	Lantos
Coble	Gilchrest	Largent
Coburn	Gillmor	Latham
Collins	Gilman	LaTourette
Combest	Gonzalez	Lazio
Condit	Goode	Leach
Conyers	Goodlatte	Levin
Cook	Goodling	Lewis (CA)
Cooksey	Gordon	Lewis (GA)
Costello	Goss	Lewis (KY)
Cox	Graham	Linder
Coyne	Granger	Lipinski
Cramer	Green	Livingston
Crane	Greenwood	LoBlundo
Crapo	Gutknecht	Lofgren
Cubin	Hall (OH)	Lowey
Cummings	Hamilton	Lucas
Cunningham	Hansen	Luther

Maloney (CT)	Pelosi	Smith (MI)
Maloney (NY)	Peterson (MN)	Smith (NJ)
Manzullo	Peterson (PA)	Smith (OR)
Markey	Petri	Smith (TX)
Martinez	Pickering	Smith, Adam
Mascara	Pickett	Smith, Linda
Matsui	Pitts	Snowbarger
McCarthy (MO)	Pombo	Snyder
McCarthy (NY)	Pomeroy	Solomon
McCollum	Porter	Souder
McCrery	Portman	Spence
McDermott	Poshard	Spratt
McGovern	Price (NC)	Stabenow
McHale	Pryce (OH)	Stark
McHugh	Quinn	Stearns
McInnis	Radanovich	Stokes
McIntosh	Rahall	Strickland
McIntyre	Ramstad	Stump
McKeon	Regula	Stupak
McKinney	Riggs	Sununu
McNulty	Riley	Talent
Meehan	Rivers	Tanner
Meek	Rodriguez	Tauscher
Menendez	Roemer	Tauzin
Mica	Rogan	Thomas
Millender	Rogers	Thompson
McDonald	Rohrabacher	Thornberry
Miller (CA)	Ros-Lehtinen	Thune
Miller (FL)	Rothman	Thurman
Mink	Roukema	Tiahrt
Moakley	Roybal-Allard	Tierney
Molinari	Royce	Torres
Mollohan	Rush	Towns
Moran (KS)	Ryun	Trafficant
Moran (VA)	Sabo	Turner
Morella	Salmon	Upton
Murtha	Sanchez	Velázquez
Myrick	Sanders	Vento
Nadler	Sandlin	Walsh
Neal	Sanford	Wamp
Nethercutt	Sawyer	Watkins
Neumann	Saxton	Watt (NC)
Ney	Scarborough	Watts (OK)
Northup	Schaefer, Dan	Waxman
Norwood	Schaffer, Bob	Weldon (FL)
Nussle	Shumer	Weldon (PA)
Oberstar	Scott	Weller
Obey	Sensenbrenner	Wexler
Oliver	Serrano	Weygand
Ortiz	Shadegg	White
Oxley	Shaw	Whitfield
Packard	Shays	Wicker
Pallone	Sherman	Wise
Pappas	Shimkus	Wolf
Parker	Shuster	Woolsey
Pascarell	Sisisky	Wynn
Pastor	Skaggs	Yates
Paxon	Skeen	Young (AK)
Payne	Skelton	Young (FL)
Pease	Slaughter	

#### NAYS—16

Barr	King (NY)	Taylor (MS)
Blumenauer	McDade	Taylor (NC)
Boswell	Minge	Visclosky
Campbell	Owens	Waters
Forbes	Paul	
Hall (TX)	Stenholm	

#### NOT VOTING—18

Aderholt	Clay	Manton
Allen	Edwards	Metcalf
Andrews	Gutierrez	Rangel
Archer	Hunter	Reyes
Becerra	Kaptur	Schiff
Brown (OH)	Kolbe	Sessions

□ 1214

Mr. HALL of Texas, Ms. WATERS, and Mr. OWENS changed their vote from "yea" to "nay."

Messrs. GEJDENSON, GILCHREST, and PETERSON of Pennsylvania changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. ALLEN. Mr. Speaker, I ask that the RECORD reflect that this morning I was unavoidably detained on rollcall vote 105, House Resolution 93, and that if I had been present, I would have voted in the affirmative.

## PERSONAL EXPLANATION

Mr. BROWN of Ohio. Mr. Speaker, earlier today I was detained on official business and unfortunately was unable to cast my vote on House Resolution 93. Had I been present, I would have voted "yea" on this resolution, which expresses the sense of the House that if any adjustment is made to the consumer price index that it should be made by the Bureau of Labor Statistics.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 991

Mr. RAHALL. Mr. Speaker, on May 6, 1997, the name of the gentleman from Arizona, Mr. MATT SALMON, was inadvertently added as a cosponsor of H.R. 991 instead of adding the name of the gentleman from Texas, Mr. MAX SANDLIN.

I apologize for this unintended error and respectfully ask unanimous consent that the name of the gentleman from Arizona, Mr. MATT SALMON, be removed as cosponsor of H.R. 991 and that the name of the gentleman from Texas, Mr. MAX SANDLIN, be added as cosponsor of H.R. 991.

The SPEAKER pro tempore (Mr. SHAW). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

## HOUSING OPPORTUNITY AND RESPONSIBILITY ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 133 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2.

□ 1217

## IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2) to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs, and for other purposes, with Mr. COMBEST (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, May 6, 1997, the amendment by the gentlewoman from Texas [Ms.

JACKSON-LEE] had been disposed of and title II was open for amendment at any point.

Pursuant to the order of the Committee of that day, the following Members may offer their amendments to title II even after the reading has progressed beyond that title:

Amendment No. 51 by the gentleman from Virginia [Mr. MORAN];

Amendment No. 43 by the gentlewoman from New York [Ms. VELÁZQUEZ]; and

Amendment No. 2 by the gentleman from Texas [Mr. DELAY].

## AMENDMENT NO. 5 OFFERED BY MR. FRANK OF MASSACHUSETTS

The CHAIRMAN pro tempore. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts [Mr. FRANK] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. FRANK of Massachusetts:

Page 102, strike line 1 and all that follows through line 7 of page 104, and insert the following:

## SEC. 225. FAMILY RENTAL PAYMENT.

(a) RENTAL CONTRIBUTION BY RESIDENT.—A family residing in a public housing dwelling shall pay as monthly rent for the unit an amount, determined by the public housing agency, that does not exceed the greatest of the following amounts, (rounded to the nearest dollar):

(A) 30 percent of the monthly adjusted income of the family.

(B) 10 percent of the monthly income of the family.

(C) If the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by such agency to meet the housing costs of the family, the portion of such payments that is so designated.

(b) MINIMUM RENTAL AMOUNT.—Each public housing agency shall require

Page 105, strike line 21 and all that follows through line 19 on page 106.

Page 107, strike "except that" on line 2 and all that follows through line 5, and insert a period.

## RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 172, noes 252, not voting 9, as follows:

[Roll No. 106]

AYES—172

Abercrombie  
Allen  
Baldacci  
Barcia  
Barrett (WI)  
Bentsen  
Berman  
Berry  
Bishop

Blagojevich  
Blumenauer  
Bonior  
Borski  
Boswell  
Boucher  
Brown (CA)  
Brown (FL)  
Brown (OH)

Capps  
Carson  
Clayton  
Clement  
Clyburn  
Conyers  
Costello  
Coyne  
Cummings

Davis (FL)  
Davis (IL)  
DeGette  
DeLauro  
Dellums  
Deutsch  
Dicks  
Dingell  
Dixon  
Doggett  
Doyle  
Engel  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Fazio  
Filner  
Flake  
Foglietta  
Ford  
Frank (MA)  
Frost  
Furse  
Gedensson  
Gephardt  
Gonzalez  
Gordon  
Green  
Hall (OH)  
Hamilton  
Hastings (FL)  
Hefner  
Hilliard  
Hinchey  
Hinojosa  
Holden  
Hooley  
Hoyer  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jefferson  
Johnson (WI)  
Johnson, E.B.  
Kanjorski  
Kennedy (MA)

Kennedy (RI)  
Kennelly  
Kildee  
Kilpatrick  
Kind (WI)  
Klecza  
Klink  
Kucinich  
LaFalce  
Lampson  
Lantos  
Levin  
Lewis (GA)  
Lowey  
Luther  
Maloney (CT)  
Maloney (NY)  
Manton  
Markey  
Martinez  
Mascara  
Matsui  
McCarthy (MO)  
McDermott  
McGovern  
McHale  
McIntyre  
McKinney  
McNulty  
Meehan  
Meek  
Menendez  
Millender  
McDonald  
Miller (CA)  
Mink  
Moakley  
Mollohan  
Murtha  
Nadler  
Neal  
Oberstar  
Obey  
Oliver  
Ortiz  
Owens  
Pallone  
Pascarell  
Pastor

## NOES—252

Ackerman  
Aderholt  
Archer  
Armey  
Bachus  
Baesler  
Baker  
Ballenger  
Barr  
Barrett (NE)  
Bartlett  
Barton  
Bass  
Bateman  
Bereuter  
Blibray  
Bilirakis  
Bliley  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bono  
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Hunter  
Hutchinson  
Hyde  
Inglis  
Istook  
Jenkins  
John  
Johnson (CT)  
Johnson, Sam  
Jones  
Kasich  
Kelly  
Kim  
King (NY)  
Kingston  
Klug  
Knollenberg  
Kolbe  
LaHood  
Largent  
Latham

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Lazio	Pease	Skeen
Leach	Peterson (MN)	Skeltom
Lewis (CA)	Peterson (PA)	Smith (MI)
Lewis (KY)	Petri	Smith (NJ)
Linder	Pickering	Smith (OR)
Lipinski	Pickett	Smith (TX)
Livingston	Pitts	Smith, Linda
LoBiondo	Pombo	Snowbarger
Lofgren	Porter	Solomon
Lucas	Portman	Souder
Manzullo	Pryce (OH)	Spence
McCarthy (NY)	Quinn	Stearns
McCollum	Radanovich	Stenholm
McCrery	Ramstad	Stump
McDade	Regula	Sununu
McHugh	Riggs	Talent
McInnis	Riley	Tanner
McIntosh	Roemer	Tauzin
McKeon	Rogan	Taylor (MS)
Metcalf	Rogers	Taylor (NC)
Mica	Rohrabacher	Thomas
Miller (FL)	Ros-Lehtinen	Thornberry
Minge	Roukema	Thune
Molinari	Royce	Tiahrt
Moran (KS)	Ryun	Trificant
Moran (VA)	Salmon	Upton
Morella	Sanford	Walsh
Myrick	Saxton	Wamp
Nethercutt	Scarborough	Watkins
Neumann	Schaefer, Dan	Watts (OK)
Ney	Schaffer, Bob	Weldon (FL)
Northup	Sensenbrenner	Weldon (PA)
Norwood	Sessions	Weller
Nussle	Shadegg	White
Oxley	Shaw	Whitfield
Packard	Shays	Wicker
Pappas	Sherman	Wolf
Parker	Shimkus	Young (AK)
Paul	Shuster	Young (FL)

## NOT VOTING—9

Andrews	DeFazio	Kaptur
Becerra	Edwards	Reyes
Clay	Gutierrez	Schiff

□ 1235

Ms. SANCHEZ and Mr. SNYDER changed their vote from "no" to "aye." So the amendment was rejected. The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. EDWARDS. Mr. Speaker, earlier today I missed rollcall votes 105 and 106. Had I been present, I would have voted "yes" on both votes.

## AMENDMENT NO. 30 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. COMBEST). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 30 offered by Ms. JACKSON-LEE of Texas:

Page 99, strike line 12 and all that follows through line 25 on page 99, and insert the following:

## SEC. 223. PREFERENCES FOR OCCUPANCY.

(a) IN GENERAL.—Except for projects or portions of projects designated for occupancy pursuant to section 227 with respect to which the Secretary has determined that application of this section would result in excessive delays in meeting the housing needs of such families, each public housing agency shall establish a system for making dwelling units in public housing available for occupancy that—

(1) for not less than 50 percent of the units that are made available for occupancy in a given fiscal year, gives preference to families that occupy substandard housing (including families that are homeless or living in a

shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced (including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978) at the same time they are seeking assistance under this Act; and

(2) for any remaining units to be made available for occupancy, gives preference in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include—

(A) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities;

(B) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family;

(C) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available;

(D) assisting families that include one or more adult members who are employed; and

(E) achieving other objectives of national housing policy as affirmed by the Congress.

Page 100, line (1) strike "(c)" and insert "(b)".

Page 100, line 4, after "preferences" insert "under subsection (a)(2)".

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me say, although I appreciate very much some of the common ground that the chairman and ranking member have shared and supported amendments that I have offered regarding job training and jobs, allow me to say that the general direction of this particular legislation regarding housing I have a great disagreement with, as many of my friends and associates on this side of the aisle. One of the ones is the effort behind this particular amendment which has to do with keeping in the Federal preferences dealing with housing particularly for the poorest of the poor and homeless.

I recognize that we are looking at this issue from different colored glasses, but might I just share with colleagues that in Houston alone in October 1996 the University of Houston Center for Public Policy indicates that there are 9,216 homeless persons. It also showed in the Houston office of the Veterans' Administration that there were 9,216 individuals who are homeless, 3,500 were homeless veterans. New York City alone has 100,000 homeless families on any given night. The National Coalition for the Homeless cites that 7 million families were identified as homeless.

Therefore, my issue is that we must have a housing system that not only appeals to our working families, affordable housing, but it also responds to

those individuals who need quality housing who are the poorest of the poor. It is my sense that Federal preferences heretofore had done that, allowing for local authorities to be able to address themselves to the disabled, senior citizens and as well the homeless. That is the reason as well why I spoke earlier this week on the question of one-for-one replacement, not to talk about the issues in Chicago or New York or California but to talk about the issues in cities like Houston and rural communities where the one-for-one replacement is still needed because of the low number of public housing dwelling units for the poorest of the poor, homeless individuals as well as veterans as well as the working very poor.

I would ask the gentleman from Massachusetts [Mr. KENNEDY] if he would, because this issue is so very important, HUD statistics show there is a 40-year wait for public housing in New York, a 12-year wait for public housing in Chicago, a 22-year wait in Philadelphia, a 20-year wait in Dade County, FL, and in my city alone, a large number of individuals, some 20,000, on the waiting list. I would like to see us work through this issue.

I will be withdrawing this amendment but not withdrawing my pain and my concern that the least of those, the most vulnerable, need housing.

Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. KENNEDY] to engage in a colloquy to try and work through this issue.

Mr. KENNEDY of Massachusetts. First of all, let me thank the gentleman from Texas [Ms. JACKSON-LEE] for the efforts she is making on behalf of the constituents which she represents and with regard to constituencies outside of her congressional district who also are suffering as a result of not enough affordable housing being made available in the Houston area.

This is a problem that is not just unique to Houston. The truth is that, if we look at what the gentlewoman from Texas [Ms. JACKSON-LEE] is attempting to do, her efforts are stymied largely because we simply do not have enough resources in this bill to begin to build any new units of affordable housing. This bill in a tragic sense, I think, indicates the housing policies of this country. Despite the fact that the largest single growing portion of our population is the poorest of the poor in the United States of America, this bill does not contain funding for a single new housing unit. And so when we get into very tight communities such as the Houston market, where there is very little affordable housing stock, and since we have gotten rid of the one-for-one requirement, the one-for-one requirement means, if we are going to take a housing unit out of circulation, that we have to replace it with a new housing unit so that we do not lose the

total number of units available to a local community.

While that was a positive development for many years, because of the lower funding levels, it meant that we found many housing projects throughout the country where we found boarded-up projects because the local housing authority was no longer able to afford to build a whole new housing project, and so they would have to keep the old housing projects in existence. It is a terrible dilemma.

The CHAIRMAN. The time of the gentlewoman from Texas [Ms. JACKSON-LEE] has expired.

(On request of Mr. KENNEDY of Massachusetts, and by unanimous consent, Ms. JACKSON-LEE of Texas was allowed to proceed for 1 additional minute.)

Mr. KENNEDY of Massachusetts. Mr. Chairman, in conclusion what I would suggest to the gentlewoman from Texas is that she has done some fine work on this issue. She adds to the debate and she has, I think, brought to the floor the issue of the downside risk of the repeal of the one-for-one requirement.

I think that there are some provisions we have included in the bill that can provide some assistance in terms of mixed income housing with an amendment that the gentleman from New York [Mr. LAZIO] was willing to accept in the committee. But I do believe that this is not going to completely suffice a housing market such as the Houston market. I look forward to working with the gentlewoman from Texas [Ms. JACKSON-LEE], and I hope the gentleman from New York [Mr. LAZIO], if the chairman would just acknowledge for one moment, that in housing markets such as the Houston market, the repeal of one-for-one, while desirable as a national policy, can create difficulties in specific marketplaces where we simply do not have enough housing units to meet the needs of the very poor.

The CHAIRMAN. The time of the gentlewoman from Texas [Ms. JACKSON-LEE] has again expired.

(By unanimous consent, Ms. JACKSON-LEE of Texas was allowed to proceed for 1 additional minute.)

Mr. KENNEDY of Massachusetts. In conclusion, I would like to suggest that I think that this is an issue that the gentleman from New York, the chairman, has shown, while a commitment to the repeal of one-for-one, a recognition that this is going to have some anomalies in terms of how this is going to affect specific communities.

I am sure the chairman of the committee as well as the ranking member would like to work with the gentlewoman from Texas [Ms. JACKSON-LEE] to try to address the specific concerns of the Houston community.

□ 1245

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from

Massachusetts [Mr. KENNEDY] and I thank the gentleman from New York [Mr. LAZIO] for what he is about to respond, and hoping that we can work through conference on this issue.

Mr. LAZIO of New York. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from New York.

Mr. LAZIO of New York. Mr. Chairman, let me just comment that in fact there is no doubt that we need to look to new tools to develop additional units of housing, affordable housing, wherever we can. That is really the intent of H.R. 2. Within H.R. 2 we are allowing for those buildings that are under considerable physical stress, where they really are in deep need of modernization and would otherwise be torn down that the tenants at least be given vouchers so they would be able to use over and above what we have right now, incremental vouchers, new vouchers, so that people can go out there and use them to search for housing.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. KENNEDY] for his leadership, and I know that one-for-one replacement is something we will keep working on for those kinds of communities. I thank the gentleman from Massachusetts [Mr. KENNEDY] very much for his leadership.

The CHAIRMAN. Is there objection to the gentlewoman from Texas [Ms. JACKSON-LEE] withdrawing her amendment?

There was no objection.

The CHAIRMAN. The amendment offered by the gentlewoman from Texas [Ms. JACKSON-LEE] is withdrawn.

AMENDMENTS OFFERED BY MS. VELÁZQUEZ

Ms. VELÁZQUEZ. Mr. Chairman, I offer two amendments, and I ask unanimous consent that amendments 43 and 44, as modified, be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Ms. Velázquez:  
Page 104, lines 12 and 13, strike "not less than \$25 nor more than \$50" and insert "not more than \$25".

Page 193, strike lines 4 and 5 and insert the following:

(B) shall be not more than \$25; and

Ms. VELÁZQUEZ. (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

Mr. LAZIO of New York. Mr. Chairman, reserving the right to object, I ask unanimous consent, and I understand that the gentlewoman's staff and our staff have been working together to try and provide some parameters for time, and that there has been a ten-

tative agreement that we would set the time limit at 30 minutes equally divided, half of that controlled by the gentlewoman from New York [Ms. VELÁZQUEZ] and half controlled by myself; and I make that unanimous-consent request.

Mr. Chairman, I do this for the purpose of assuring that we have this time limitation.

The CHAIRMAN. The gentleman from New York may inquire, but we can only dispose of one unanimous-consent request at a time.

Mr. LAZIO of New York. Mr. Chairman, then I reserve the right to object at this point.

Mr. Chairman, if I could just make an inquiry of the gentlewoman from New York?

The CHAIRMAN. Under the gentleman's reservation of objection the gentleman may inquire of the other side anything he needs to know to determine whether or not he will object.

Mr. LAZIO of New York. If I can inquire of the gentlewoman if that correctly reflects her understanding, that we can have a time limitation of 30 minutes, 15 minutes controlled by either side, 15 minutes controlled by myself, 15 minutes controlled by the gentlewoman from New York in order to consider her en bloc application, and I am wondering if that meets with the gentlewoman's approval?

Ms. VELÁZQUEZ. Mr. Chairman, if the gentleman will yield, I would not object to the unanimous consent request.

Mr. LAZIO of New York. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. LAZIO of New York. Mr. Chairman, I ask unanimous consent then, to ensure that there is time limitation on the en bloc amendment of 30 minutes, that 15 minutes be controlled by the gentlewoman from New York [Ms. VELÁZQUEZ] and 15 minutes controlled by myself.

The CHAIRMAN. And on all amendments thereto; is that correct?

Mr. LAZIO of New York. On all amendments thereto; yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, once again we are debating a housing bill that is an insult to poor families. Instead of truly helping people move into the work force, this bill includes provisions that threaten a very basic and human need, access to safe affordable and clean housing. If we are really going to help

families climb out of poverty and into lives of dignity, decency, and safety, they must have a fair chance to succeed.

Across America millions of households pay more than half of their income on rent. H.R. 2 adds to the burden on the poorest families by raising minimum rents to between \$25 to \$50. Fifty dollars may not seem like much, but it may force the very, very poor to choose between food and shelter.

By limiting the minimum rents to no more than \$25, my amendment provides a basic protection for the most disadvantaged Americans. It is the final safety net for families that have suddenly fallen on extremely hard times. I strongly urge the adoption of these provisions.

My colleagues, families that live in public housing are willing to pay rent. But, consider the 300,000 households who are protected by my proposal. They live in absolute poverty. They are parents who have lost their jobs or have to pay unexpected medical expenses. They are families climbing out of homelessness.

The chairman of the Subcommittee on Housing and Community Opportunity often points out that H.R. 2 includes exemptions for some families. Yet, consider the context. First, the Republican Congress cuts PHA budget to the bone and now they want to force PHA's to grant exemption, exemptions that work against their own financial interests.

As if this was not bad enough, H.R. 2 forces struggling families to jump through intimidating, bureaucratic hoops to get hardship waivers. That is not a helping hand. That is harassment.

My colleagues, if this legislation passes, it will create an underclass of people that cannot even afford public housing. Worst of all, with 600,000 people already pushed into homelessness by Republican budget cuts and shortages of homeless shelters, the poorest of the poor will have no place to turn. For a country that prides itself on the American dream, we cannot allow this to happen.

Mr. Chairman, I urge all of my colleagues to support my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LAZIO of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Chairman, I thank the chairman for yielding this time to me. This of course is another important amendment aimed at limiting the important reforms that Chairman LAZIO and the Republicans are proposing with regard to the utilization of public housing.

What has been previously agreed to is that if an individual leaves public housing and gets employment, that the person who makes more money will be

able to keep it under the provisions of this bill. Under the old system, which the gentleman from Massachusetts [Mr. FRANK] was attempting to adopt earlier with an amendment rejected by the House, as the person's income would go up, so concurrently would the amount of rent paid, which is certainly not an incentive for a family struggling to go out and try to find additional work for the family to make additional income when the rent increase takes away the extra benefit of that effort.

This amendment would then reach inside the housing authority's discretion and say that the maximum rent someone could be required to pay in a hardship circumstance would be \$25 down to zero, so that we are attempting to train individuals in homeownership skills, the idea that one should work, take care of their family, and make some contribution toward one's own shelter.

The Velázquez amendment would say that any individual who has access to public housing could pay zero. If you homeowners in America have that luxury and that the proposal as put together by the chairman, ranging to \$25 to \$50 minimum rent, to be determined by the housing authority, would also put in the hands of the authority the ability to look at that individual and say, yes, you have an unusual circumstance and temporarily we will grant you access to housing at a minimal level. But understand, public housing is not intended to be a retirement home. This is transitional housing, and while you are here we expect you to learn what skills are required to be an effective homeowner, and making a contribution toward your own housing is certainly an important part of that lesson.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Chairman, I think this is an important amendment. I think that people perhaps are unfamiliar with exactly the kinds of circumstances that many of the very poor people that are occupying public housing units face on a day-to-day basis.

The truth is that, if we look at the kinds of people that have just lost their job or people that have had long-term unemployment, people that have had severe medical problems, if you look at the kinds of circumstances where in some States, for instance, the State of Texas, where your total welfare benefit can be as low as \$188 a month, I just talked to the gentlewoman from Florida [Mrs. MEEK] and asked her what the basic welfare benefit was in the State of Florida. She said it was under \$200 a month. I was wondering what, which my friend from North Carolina [Mr. WATT] suggested, the welfare benefit in the State of North Carolina might be.

Certainly it can sound like this is not very much money. But the truth of the matter is, if you look at what raising these minimum rents from \$25 to \$50 can actually incur, there will be over 340,000 families in these circumstances whose rents will increase by \$315 a year.

That does not seem like a lot of money to people who can occupy this Chamber. But if you cannot occupy this Chamber and you look at the kinds of circumstances that people that have these very minimum incomes, that are on AFDC, this can be very hurtful. It can mean whether or not a baby is going to be fed. It can mean whether or not the medicine is going to be bought. It can mean whether or not the children are going to wake up hungry or go to bed hungry.

These are the kinds of real-world issues that I feel far too many families in these circumstances face every day. So I would hope that we can find it in our hearts to support a minimum rent of \$25, but we do not have to turn around and raise that to \$50.

Mr. LAZIO of New York. Mr. Chairman, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Florida [Mrs. CARRIE MEEK].

Mrs. MEEK of Florida. Mr. Chairman, I thank the gentlewoman from New York [Ms. VELÁZQUEZ] for yielding the time.

Mr. Chairman, I would like to say that, No. 1, I graciously support the amendment of my colleague, the gentlewoman from New York [Ms. VELÁZQUEZ]. Like many of my colleagues in this body, I know from whence my colleague is coming. I know what the background is and the need for this amendment.

First of all, there are some false assumptions that I need to talk about quickly. One false assumption is that people are going to have jobs. That is a false assumption. My colleague wants to take care of these people who have tried very hard to get a job but who will not have a job. If they get one, it will last only 2 or 3 months or more.

The second thing the gentlewoman is trying to do is to be sure that the welfare reform bill works so that people can maintain housing and keep their quality of life going, as poor as it is. I do not want to see my colleagues put too much emphasis on the housing authorities on this bill.

I have worked with them over the years. They are good people. But many times there is too much discretion in the way they make their decisions that something that you would like to see done in terms of an exemption, two-thirds of the families that we have been talking about are affected by this.

I think the amendment is a good one, and I think that we cannot dictate according to circumstances all over this

country how much a person should pay. I thank the gentlewoman from New York [Ms. VELÁZQUEZ] for bringing this amendment to the attention of this House, and I am asking the support of my colleagues for the amendment of the gentlewoman from New York.

Mr. Chairman, I rise in support of this good amendment. We often talk about doing the right thing. Voting in support of this amendment is the right thing.

The amendment would require local housing authorities to set minimum rents of \$0–\$25 for public housing and assisted housing. Under the bill, minimum rents would be set between \$25 and \$50 monthly.

We know that some residents of public housing and assisted housing will lose their SSI benefits under the Welfare Reform Act of 1996. This would place an added burden on individuals already financially strapped and may result in the eviction of those simply unable to pay.

The Velázquez amendment does not dictate how much a tenant will pay. It recognizes that depending on the immediate circumstances, some tenants cannot afford to pay even a dollar for rent. We may not want to admit it—but there are still v-e-r-y poor people in our country.

For people with little or no income, the \$25–\$50 threshold required in the bill, shuts them out of the housing market. Mr. Speaker, I cannot think of a city in America that wants to increase its homeless population.

The amendment also authorizes HUD to develop exemptions for families faced with unanticipated medical expenses, families who have lost their welfare benefits, and persons unemployed.

The bill allows local public housing authorities to determine hardship exemptions. I will not comment about the myriad of exemptions and scope of some exemptions that will come out of this newly granted authority.

Mr. Chairman, approximately two-thirds of the families affected by the new minimum rent requirement would be families with children. Let's do the right thing to keep families in safe affordable housing. Support this good amendment.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 1 minute to the gentlewoman from Indiana, [Ms. JULIA CARSON].

Ms. CARSON. Mr. Chairman, I thank the gentlewoman for yielding. I too want to commend the gentlewoman from New York [Ms. VELÁZQUEZ] for having the foresight, the compassion, the sensitivity, and the understanding to offer her amendment.

Prior to becoming a Member of the U.S. Congress, I headed a welfare agency in the city of Indianapolis. When I took it over, it had a \$20 million deficit. When I left, it had \$20 million in the bank. We took care of poor people. We got people off of welfare and put them into jobs and into training and into educational experiences.

We did not do that by being cruel. We did not do that by removing a safety net, as this bill would do ultimately; and that is to annihilate the Brooke amendment to raise from \$25 to \$50 a

month the minimum rent that persons would have to pay in public housing.

We understand, by virtue of my past experience, that there are a lot of people that are responsible who want to take care of their families but life's circumstances do not allow them temporarily to do that. We should not pass a punitive measure against somebody who finds themselves in circumstances over which they have no control. I support the amendment enthusiastically.

□ 1300

Ms. VELÁZQUEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. JACKSON].

Mr. JACKSON of Illinois. Mr. Chairman, I want to rise in support of the Velázquez amendment, which sets a minimum rent of zero to \$25 and a waiver for our Nation's most vulnerable who find themselves caught in situations of extreme hardship. I thank the gentlewoman from New York for her strong commitment to those who need our help the most and appreciate her advocacy on behalf of this critical issue.

I want to first begin with a point of clarification. Public housing, as the other side has referred to it, is not transitional housing. It is affordable housing, and it is not free housing. It is affordable housing because the private market does not build homes for poor people and that is why the Government is in the housing business.

I urge my colleagues to oppose the onerous provision of H.R. 2 which establishes a minimum rent for public housing and choice-based rental assistance recipients and provides only a voluntary waiver for hardship situations. While \$25 to \$50 does not seem like anything to most of us fortunate enough to have a steady stream of income, a minimum rent above \$25 would pose a genuine hardship on families who are earning little or no income. This is especially true in the case of families who have lost or are at risk of losing their welfare benefits, are unemployed, are transitioning from homelessness, or are unexpectedly burdened by unanticipated medical expenses. For families caught in such desperate straits, \$50 may just constitute too high a monthly expense.

Mr. Chairman, this provision could unduly burden 340,000 families across the Nation if all public housing authorities implemented this rent scheme. Two-thirds of the families affected by this would be families with young children. Last year in the State of Illinois, 4,464 families were adversely impacted by the \$25 minimum rent. Doubling this figure would force our neediest constituents to survive under further strain to provide food, medicine, and clothing for their children.

Mr. Chairman, these are basic human necessities which we take for granted. In this Nation, which is considered an

economic superpower in the world community, how can we demonstrate concern for those struggling to survive under such desperate conditions?

Mr. Chairman, I thank the gentlewoman from New York for offering this critical amendment and I urge my colleagues to support this measure.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 1 minute to the gentlewoman from the Virgin Islands [Ms. CHRISTIAN-GREEN].

Ms. CHRISTIAN-GREEN. Mr. Chairman, I thank the gentlewoman from New York.

I rise today in support of the amendment offered by my colleague from New York and I commend her for compassion and courage in offering it.

If enacted, the Velázquez amendment would allow the Secretary of Housing and Urban Development to create certain classes of hardship and accordingly set a minimum rent under this category of no more than \$25.

I come from an area, Mr. Chairman, where in recent years we have been ravished by one devastating hurricane after another. Thousands of my constituents were left homeless and jobless after these storms. It would be unconscionable if, in the face of such unexpected and devastating loss, a family would face eviction because there was no flexibility to provide them with a period of adjustment by setting their monthly rent at a lower level than the minimum \$25 that H.R. 2 would now require.

Overall, Mr. Chairman, I am deeply concerned that this bill before us today, the so-called Housing Opportunity and Responsibility Act, is yet another in a series of actions being taken against the poor of our Nation. If H.R. 2 wants to live up to its charge, then we must pass the Velázquez amendment, and I urge my colleagues to do so.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, I urge adoption of the Velázquez amendment. Some of the reasons have been stated and I will briefly allude to them.

The fact is that both amounts of money we are talking about are very small: \$25 a month, \$50 a month. But for people who do not have it, because they are suddenly faced with an unanticipated medical emergency, because they are in transition between homelessness and having housing, because they have just lost their job and for some reason cannot get unemployment insurance, because they have applied for public benefits but the public benefits have not come through yet, because they have lost their welfare benefits, and we have in recent years set up a myriad of ways that people can lose their welfare benefits even when they should not, because they are unemployed, for whatever reason, \$25 can

be a huge amount of money. There is no reason to change the current situation where the public housing authority can set the minimum and substitute a system where the person has to seek a waiver, go through the bureaucracy, and wait the time at a time of crisis in their own lives. There is no reason to do that. It really adds nothing to this bill.

Second, I want to address myself to the comment made by the gentleman from Louisiana who said public housing is not permanent housing, it is not a retirement home, it is transitional housing. Well, it is not transitional housing for many people. People in public housing whose only sin is that they are making \$5 or \$6 or \$7 an hour, they are making minimum wage or they are making \$7 an hour and they cannot afford housing on the permanent market, that is permanent housing for them.

Until we decide that the minimum wage ought to be a living wage, ought to be a wage where people can afford housing on the private market, and I think the people on that side of the aisle do not agree with that kind of philosophy, I do not think anybody would vote for a \$12 or \$13 minimum wage, I am not too sure how many people would on this side either, but until we do something like that, there are going to be millions of people in this country working 40 or 50 hours a week, paying taxes and not having enough money to get housing on the private market. For them, public housing is the only possible permanent home.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I rise in support of the Velázquez amendment and urge my colleagues to support the amendment.

The bill provides for a minimum rent of \$50 per month. Ms. Velázquez's amendment provides for a minimum rent of \$25 a month. And I am sure, and I am glad, that most American citizens probably cannot relate to what all this bickering is about. Twenty five dollars a month, \$325 a year, is peanuts to most people, and that is fortunate in America.

But there are some of us who remember when \$325 a year, \$25 a month, was a major, major difference between our ability to eat and not eat. And it is important to us to look out for people in our country who for whatever reason, often for reasons not of their own making, they are between jobs, they are down on their luck, so to speak, as we used to say, and they simply do not have the money.

So, we are talking about for some people in this country, the issue of whether they have housing or whether they do not have housing, whether we

put more people on the street or whether we provide some compassion and provisions for them to have a roof above their heads.

For that reason, I want to applaud the gentlewoman from New York, [Ms. VELÁZQUEZ], for bringing this amendment to us and encourage my colleagues in the House to support the amendment. It will make this bill a better bill.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself 1 minute.

My colleagues, once again we are telling disadvantaged families that they do not matter, that they are expendable, all in the name of a capital gains tax cut.

I call on all of my colleagues to ask themselves if there is anyplace left for compassion in this Congress.

Mr. Chairman, I yield back the balance of my time.

Mr. LAZIO of New York. Mr. Chairman, I yield myself such time as I may consume.

Let us, if we can, fix the parameters of this debate. Under the terms of H.R. 2 we ask every tenant to pay a minimum rent. That minimum rent can be set by the local housing authority at between \$25 and \$50 per month. There are people who object to the fact that a minimum rent is established, or that it is established at that range from \$25 to \$50 a month.

The amendment of the gentlewoman from New York would suggest that the minimum rent ought to be from \$0 to \$25, so that their minimum rent might be \$5 a month or \$4 a month.

The very idea that we have been talking about so much over the last 4 days is that we need additional help for more people, that there is need out there for more people. But when we say to a family who receives public housing, and very often the additional benefit of utilities, that they do not have to do anything, they do not even have to pay a minimum rent of \$25 or \$30 or \$35, what we are saying to the people who are on the waiting list, to people who cannot even get into public housing to begin with and who are paying market rate is, they are going to have to wait out there a whole lot longer because this family is not willing to do its fair share.

Now, in this bill we establish exemptions. We establish exemptions. We say in the bill, and I am going to read exactly from the bill, if I can:

The local housing agency shall grant an exemption to any family unable to pay such amount because of financial hardship which shall include situations in which, one, the family has lost eligibility or is awaiting an eligibility determination for Federal, State or local programs. Two, the family would be evicted as a result of the imposition of the minimum rent requirement under the subsection. Three, the income of the family has decreased because of changed circumstances, because of loss of employment. Four, a death in the family has occurred, as well as other

situations as may be determined by the agency.

So, we are providing the broad exemptions that families might possibly need if they were faced with the hardship of having to pay \$25 or \$30 or \$35 or \$40 or \$50 as a minimum rent for the use of their unit, and in addition to the utilities.

Mr. BAKER. Mr. Chairman, will the gentleman yield?

Mr. LAZIO of New York. I yield to the gentleman from Louisiana.

Mr. BAKER. Mr. Chairman, I just wanted to return briefly for a moment to the issue of permanent versus temporary housing. The gentleman raised the issue in his remarks that it is difficult to justify to the hundreds of people who may be waiting, who are willing and anxious to occupy the housing and pay \$25, where an individual who may be fully competent of paying is paying nothing; that this bill then sets in motion a minimum requirement that just like a homeowner, they must make some contribution toward their shelter.

It is not that we are going to be calous. We are going to look at their individual situation, and if they have a problem, tell us about it. Sure, we might waive the rent requirement for a month or two while they get back on their feet, but again, this is not a permanent situation.

The gentleman earlier said that public housing should be permanent. There could be no more significant philosophical difference on this issue than that single point. Taxpayers will agree to help a person who is having a bad day and say to them, "We will help you with social programs, with shelter, whatever it takes to get you back on your feet, but we are not going to pay for a retirement community where you refuse to take actions to improve your own circumstance."

Tolerance is fine, help is fine, but saying to someone that they make no contribution toward their housing at all, forever, there is a limit to which taxpayers will not go, and I think we are finding it.

I thank the gentleman for yielding.

Mr. LAZIO of New York. Mr. Chairman, I again yield myself such time as I may consume, to note that the amendment of the gentlewoman from New York goes beyond once again where the administration is, because the administration sets a minimum rent of \$25. It also goes beyond, interestingly, where the Democratic substitute is at right now, and I would suggest that maybe the Democratic substitute, for those people who would support this amendment, perhaps they would want to amend their substitute now to reflect the gentlewoman's concerns.

The reality is; the reality is that we are asking for a sense of mutual obligation and responsibility just like we

were talking about in terms of community service and community work; that yes, they will be helped; yes, they will receive an apartment; yes, they often will receive their utilities also paid for, but in return we ask for something. We are going to ask for community service. We are going to ask them, subject to their ability to pay and their ability to ask for a hardship exemption if they cannot pay, to pay at least a minimum rent of between \$25 and \$50.

□ 1315

I wonder what kind of a statement that makes. If we say that people cannot pay that, that that is asking too much, what kind of a statement does that make to people that are equally poor, have an equally low income, and are not fortunate enough to be in public housing? They may be paying not \$25 or \$50 but they may be paying \$200 or \$300 or \$400 monthly, or maybe more than that, for their apartment to keep a roof over their heads.

I know the gentleman from Massachusetts had a question. I will be happy to yield briefly for the gentleman, because again, we both had equal time. We have limited time here.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. LAZIO of New York. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. I appreciate the gentleman yielding.

Mr. Chairman, I do not think people are objecting, Mr. Chairman, to the idea that there should be minimum rents. I think what the gentlewoman from New York is trying to point out is that there are circumstances in places like Texas, I would venture to guess maybe Louisiana, I know in Florida, where the monthly payments on welfare are below \$200; in the State of Texas, it is \$188; that becomes a significant portion, and going up to \$50 in those circumstances really can mean whether the child is going to get enough food to eat.

Mr. LAZIO of New York. Reclaiming my time, Mr. Chairman, that is precisely why we have hardship exemptions which would allow a housing authority in a special case to say you might not have to pay anything at all that particular month, but for those people who have the capacity to pay, that they will pay.

I just want to mention, many people are familiar with PHDAA, an association of relatively large housing authorities. They went out and surveyed their membership. About 800 housing authorities, local housing authorities, charged more than \$25. In no case, in no case, none, did anyone get evicted because of a failure to pay that minimum rent.

So the idea, the concept, that people are going to be thrown out because they are being asked to pay \$25 a month or \$30 a month with hardship ex-

emptions if they have special circumstances is not factually correct. It is not borne out by the evidence. It does identify the division between the two sides of this debate, between those who say that people ought to be asked to do what they possibly can, and those people who think that people ought to be asked to do nothing.

Ms. VELÁZQUEZ. Mr. Chairman, will the gentleman yield?

Mr. LAZIO of New York. I yield to the gentlewoman from New York.

Ms. VELÁZQUEZ. Mr. Chairman, does the gentleman think that the local housing authorities are facing budgetary constraints? And this is not that they do not want to grant exemptions, just that we cannot trust that they will do that because they are facing fiscal and budgetary constraints.

Mr. LAZIO of New York. If I can reclaim my time, I think once again the information that I just provided to this body was that over half of the membership of large housing authorities who charge minimum rents in excess of \$25, in their experience, universally, not one person was evicted who was asked to pay minimum rent. In this case, in addition to that, we have in this bill protections, additional protections, additional exemptions that can be given to a family in time of particular need. It is the least that we can ask.

Even the administration, and I would suggest even the Democratic substitute, acknowledges the fact that a minimum needs to be set, and it mocks the idea of having a minimum when we say that the minimum ought to be between zero and \$25. For that reason, I would have to oppose the gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York [Ms. VELÁZQUEZ].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer amendment No. 51.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 51 offered by Mr. MORAN of Virginia:

Page 99, after line 11, insert the following new subsection:

(e) OPTIONAL TIME LIMITATION ON OCCUPANCY BY FAMILIES FOR PHA'S WITH WAITING LISTS OF 1 YEAR OR LONGER.—

(1) 5-YEAR LIMITATION.—A public housing agency described in paragraph (2) may, at the option of the agency and on an agency-wide basis, limit the duration of occupancy in public housing of each family to 60 consecutive months. Occupancy in public housing occurring before the effective date of this Act shall not count toward such 60 months.

(2) APPLICABILITY ONLY TO PHA'S WITH WAITING LISTS OF 1 YEAR OR LONGER.—A public housing agency described in this paragraph

is an agency that, upon the conclusion of the 60-month period referred to in paragraph (1) for any family, has a waiting list for occupancy in public housing dwelling units that contains a sufficient number of families such that the last family on such list who will be provided a public housing dwelling unit will be provided the unit 1 year or more from such date (based on the turnover rate for public housing dwelling units of the agency).

(3) EXCEPTIONS FOR WORKING, ELDERLY, AND DISABLED FAMILIES.—The provisions of paragraph (1) shall not apply to—

(A) any family that contains an adult member who, during the 60-month period referred to in such paragraph, obtains employment; except that, if at any time during the 12-month period beginning upon the commencement of such employment, the family does not contain an adult member who has employment, the provisions of paragraph (1) shall apply and the nonconsecutive months during which the family did not contain an employed member shall be treated for purposes of such paragraph as being consecutive;

(B) any elderly family; or

(C) any disabled family.

(4) PREFERENCES FOR FAMILIES MOVING TO FIND EMPLOYMENT.—A public housing agency may, in establishing preferences under section 321(d), provide a preference for any family that—

(A) occupied a public housing dwelling unit owned or operated by a different public housing agency, but was limited in the duration of such occupancy by reason of paragraph (1) of this subsection; and

(B) is determined by the agency to have moved to the jurisdiction of the agency to obtain employment.

(5) PREFERENCES FOR FAMILIES MOVING TO FIND EMPLOYMENT.—A public housing agency may, in establishing preferences under section 321(d), provide a preference for any family that—

(A) occupied a public housing dwelling unit owned or operated by a different public housing agency, but was limited in the duration of such occupancy by reason of paragraph (1) of this subsection; and

(B) is determined by the agency to have moved to the jurisdiction of the agency to obtain employment.

(5) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) EMPLOYMENT.—The term "employment" means employment in a position that—

(i) is not a job training or work program required under a welfare program; and

(ii) involves an average of 20 or more hours of work per week.

(B) WELFARE PROGRAM.—The term "welfare program" means a program for aid or assistance under a State program funded under part A of title IV of the Social Security Act (as in effect before or after the effective date of the amendments made by section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

Mr. MORAN of Virginia. Mr. Chairman, Federal low-income housing assistance programs were originally designed to be transitional, helping people find temporary, decent shelter. They were never intended to be permanent. The reality today, though, is that many families know no other experience than a public housing environment.

Today, in too many cases this housing assistance is creating reverse incentives for its beneficiaries to improve their situation and become self-

sufficient. According to HUD, 40 percent of the residents of public housing leave within 3 years, 31 percent leave within 10 years, and about one-third live in public housing for more than 10 years.

This amendment will not affect the majority of residents, and it completely exempts the elderly and the handicapped. But because of the Federal budget constraints that have been imposed, we cannot increase the number of federally assisted low-income housing units. It is not going to happen.

We need to determine how, though, we can justify extending indefinitely public housing assistance to residents who may be capable of improving their economic well-being while we deny others who are equally deserving.

The fact is that there are three times as many people on waiting lists equally deserving as there are people in public-assisted housing units. Within my congressional district there is a 2-year waiting list and it has been closed, leaving thousands of families, equally deserving, unable to even apply.

This is not fair. Across the country thousands of well-deserving and eligible families, many spending more than 50 percent of their income on substandard housing, have been told they have to wait at least 2 years, and then hopefully they can get on a waiting list.

Mr. Chairman, we do not know what the total of such families are, precisely, but we know that in most cases waiting lists are closed. Let us be fair. Let us open up access to more deserving families. Across the Nation 13 million households were eligible to receive Federal housing assistance last year, slightly more than 4 million. Less than a third did receive such assistance.

The amendment that I am offering gives local housing authorities the option, the option, it is up to them, to impose a 5-year time limit on those individuals and families who are not elderly, not disabled, and who are not already employed at least 20 hours a week. The amendment builds on the self-sufficiency contract that is part of this bill.

Adoption of this amendment is going to enable local housing authorities to use an incentive to encourage tenants to use assisted housing in the way it was originally intended. Since housing assistance to some tenants could be limited to 5 years, a higher number of rental units can be recycled more frequently. Publicly assisted housing can be more accessible to more people.

It is the fairest thing we can do. I urge support for the amendment.

Mr. LAZIO of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to say that the gentleman from Virginia needs to be complimented by this body. There are few Members who are more

active in the area of housing, who understand the consequences of bad housing, than the gentleman from Virginia who has in his background experience at the local level in dealing with housing authorities and with assisted housing.

The gentleman's points are valid points. The wait lists are long. The amount of people that are there in public housing for a generation, permanently, are too great. In fact, I think what the gentleman's amendment seeks to do is to end the sense of generations being in public housing. It is a statement that public housing should not be considered a way of life, but sort of a step up or transition to self-sufficiency, in an effort to try and recycle that benefit so as many Americans as possible can use it in their time of need.

Unfortunately, the way the system works now, when a family moves into public housing there is not much incentive for them to move back out, back into the system, because we do not deal with the root causes of poverty. We just deal with the symptom of shelter. In that sense, because there is no incentive or no time limitation, no encouragement to move through the system, there are literally millions of Americans that are waiting and do not have the benefit of having a subsidized unit.

I wanted to just, if I could, yield to the gentleman from Virginia, if he could just speak to exactly the tenants that might be affected by this. Would it be just anybody? Would it be seniors and elderly? I wonder if he can just describe that.

Mr. MORAN of Virginia. Mr. Chairman, will the gentleman yield?

Mr. LAZIO of New York. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, no seniors would be affected, no people who are disabled, no one who would have difficulty in achieving an income. There are a lot of people in assisted housing that simply do not have the ability to support themselves because of disabilities, or because of age or whatever. This only applies to families that are able bodied, that have been able to use assisted housing for 5 years, and it also only applies, I would emphasize to the chairman and thank him for his kind words, it only applies if there are waiting lists.

If there are no waiting lists, in other words, if there are no equally deserving families waiting to use that unit, it does not apply, so that it takes no assisted housing units off the market. All it does is to expand assisted housing to more people who are equally deserving.

Mr. LAZIO of New York. I thank the gentleman. Let me say, Mr. Chairman, I think this is a very valid, very progressive amendment. I think the gentleman speaks to some of the concerns that many of us have in terms of assur-

ing that more Americans have the benefit of public housing.

I should say, I am concerned a bit about the fact that we were not able to move last year's bill through conference to the President's desk for signature. I think we tried to certainly develop some broad reforms that boldly moved forward and helped to transform the entire population in public housing.

I am a little concerned about the amendment offered by the gentleman. While I think it is a very good amendment, I am only concerned that it not be sort of veto bait, or it would stop the momentum of the reforms we have in this bill, because we are trying so desperately in this bill to create that sense of self-sufficiency, self-reliance, of building work skills, of transitioning back to the work force where people can have the choice of moving out of public housing and into the work force, where they make their own choices for housing, employment, and different choices for their family.

So I just voice that concern, which is not a policy concern, but really a concern that may affect the ability for us to move this bill through the Chamber, given what I anticipate might be the opposition by some Members from the Democratic side of the aisle and potentially over in the other body, and perhaps in the White House.

I just lay that out there as a potential concern. At the same time, I want to compliment the gentleman from Virginia for his work on this amendment, for his work on housing in general, for his sense that public housing ought to be a place where there are law-abiding people, where we do not tolerate failure and do not tolerate crime, and it is integrated into the community, and is looked upon not as something that people run away from or look the other way from, but in fact as a magnet to help strengthen the community.

Mr. MORAN of Virginia. If the gentleman will continue to yield, Mr. Chairman, so it is the gentleman's considered judgment that even though this amendment might pass in the House, that it might jeopardize final enactment of this bill?

If that is the case, Mr. Chairman, that is an important consideration. I want to hear from my colleague, the gentleman from Massachusetts [Mr. KENNEDY], on the bill, but I will respond subsequently.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

First of all, Mr. Chairman, I want to just acknowledge the fine work that my good friend, the gentleman from Virginia [Mr. MORAN], has done on housing and a number of other issues in his career in the Congress. I appreciate it, and have worked very closely with him on a number of issues.

This is one where we have a very, very strong disagreement in terms of the ultimate resolution or consequences that this amendment could bring down upon what I believe are some of the most poor and vulnerable people in this country.

While I think he does this with the best instincts to try to prod people to go back to work, I think the difficulties that this could ultimately impose on the poorest people in this country are really almost unimaginable, when I think of the innovation and creativity that this body has come up with over the course of the last few days on this housing bill alone, to find every way possible to punish the poor, in the thought that somehow if we punish them enough that they will finally work their way out of poverty.

□ 1330

That is ultimately the goal of these amendments. It is not just this amendment. It is the amendment to go minimum rents \$25 to \$50. It is a very tough amendment to argue against. My colleagues say there is a lot of very poor people that are on welfare. They get \$188 a month, going up to \$50, that is going to take away some of their food. My colleagues say, no, if we raise that minimum rent, boy, we will get them to go to work; let us go out and kick out all the poor people.

In this bill we are going to go from 75 percent targeting to people with 30 percent of median incomes or less. That is the very poor people of the country. That is the vast majority of people that live in public housing, the vast majority of people that get section 8 vouchers. And yet what we are going to do is say, no, with the rate, the way to fix the public housing programs is to jack up the rents on those people that are there, and then what we are going to do is bring in a lot wealthier people to occupy the units.

It is a brave new world we are establishing. Boy oh boy, I will bet that sooner or later we are going to have public housing that looks terrific. The only trouble is no poor people are going to live in it. What we are going to end up with is a system where we have made ourselves look good and we can walk around and boast about the fact that we have gotten all these work incentives for the poor which basically take a cattle prod to the poor. And then what we are going to do, because the justification of actually lowering the dollar amounts on how much goes into the housing bill is because of the budget agreement, which is an argument we went through late last evening.

The truth of the matter is we are going to spend under this budget agreement \$35 billion on capital gains tax reductions. So there is an incentive. We have an incentive for the rich to get richer by giving them an incentive to

get richer by lowering their taxes. But the way we are going to get the poor to work harder is to get the cattle prod out and give them a little jab. That is essentially what this bill does. That is effectively what I think the ultimate resolution of this amendment will be, that we are going to then go out, if we look at the facts, it would be one thing if we had millions of people in public housing who were just sitting there languishing.

The amendment, I believe, addresses a nonexistent problem. The median stay of households in public housing is 4 years. Most households, over 71 percent, live in public housing less than 10 years. And 40 percent stay less than 3 years. Those who remain longer are generally the elderly and disabled. I am sure that we could go out, and I am sure the gentleman from Virginia [Mr. MORAN] has found individual cases where there is an exemption. That should not be. But to try and suggest that at a period of time where we have a new welfare reform bill which is going to throw people off of welfare, where we have a legal immigrant program which is essentially going to deny legal immigrants even SSI benefits, and then we are going to come back and now say we are going to take away your housing, I mean, what are we going to do?

Then we have also cut the homeless budget by 25 percent. So what we end up with is people on the street. Then everybody drives around in their cars and they look around at all the people on the street and think, gosh, that is terrible. My goodness, this homeless situation is terrible in America, and, boy, I wish those people down in Washington would pass some laws to take care of homelessness because this is a shame.

I mean, Mr. Chairman, ultimately it is unpopular for us to stand up here and fight on all these issues. It sounds like we are defending the status quo. But underneath the status quo is a basic fundamental judgment that we say we are going to take care of poor and vulnerable people. If they want to castigate us as looking like all we are trying to maintain is the status quo because we try to stand up for very poor and vulnerable people, so be it. But that is what the value judgment is. And I am proud to stand with it.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have been debating the housing bill now for quite a few days. And it seems like we spend most of our time, probably 99 percent of our time, debating two versions of government housing. For those of us who believe that more houses and better houses could be produced in a free market and in a free society, it is a bit frustrating. But the debate goes on.

I sincerely believe that everybody in the debate has the best of motivation,

the desire is to be compassionate and to help poor people get homes. The tragedy is that we have been doing this for a good many years and have had very little success and this attempt now, again well motivated, to change the management of the housing program to a more local management program really leaves a lot to be desired.

On one side of the aisle we find out that the biggest complaint is that we do not have enough money, and the complaint is that the budget has been greatly reduced. But the way I read the figures, the numbers are going up over \$5 billion this year, so there is going to be a lot more money in this HUD program compared to last. It is said on the other side that we are going to save \$100 million in management at the same time we are spending a lot more money. Much has been said about how do we protect the rights of the individuals receiving public housing, and I have recognized that this is a very serious concern. Yet when we have a government program, it is virtually impossible to really honor and respect. And straightforward protection of individual rights is very difficult.

I am concerned about the victims' rights, those people who lose their income, who lose their job because of government spending and government programs. It is said that we are trying very hard to take money from the rich and give it to the poor so the poor have houses. But quite frankly, I am convinced that most of the taxation comes from poor people. We have a regressive tax system. We have a monetary system where inflation hurts the poor more than the rich. And there is a transfer of wealth to government housing programs.

Unfortunately, everybody agrees the poor are not getting houses. And so many of the wealthy benefit from these programs. It is the rich beneficiaries, those who receive the rents and those who get to build the buildings are the most concerned that this government housing program continues.

Until we recognize the failure of government programs, I think we are going to continue to do the wrong things for a long time to come because there is no evidence on either side that we are really challenging the concept of public housing. There are two visions of one type of program on government housing. Some day somewhere along the line in this House we have to get around to debating the vision of a free society, a free society with a free market and low taxes, and a sound monetary system will provide more houses for the poor than any other system.

Much has been said about the corporate welfare and much has been recognized that corporations do benefit. But I am on the record very clearly that I would not endorse anything where a corporation or the wealthy get

direct benefits from these government programs, whether it is the housing program or Eximbank or whatever.

I am also very cautious to define corporate welfare somewhat differently than others. Because when we give somebody a tax break and allow them to keep some of their own money, this is not welfare. It is when we take money from the poor people and allow it to gravitate into the hands of the wealthy, that is the welfare that has to be addressed and that is the part that we seem to fail to look at endlessly whether it is the housing program or any other program.

It is true, I think that it is very possible for all of us to have a vision which is designed to be compassionate and concerned about the injustice in the system. I do not challenge the views of anyone, but neither should my motivations be challenged because I come down on the side of saying that a free society and a constitutional government would not accept any of these programs because they have not worked and they continue to fail.

The real cost of this program and all programs unfairly falls on the poor people. Yet we continue endlessly to do this and we never suggest that maybe, maybe there is an alternative to what we are doing. We have so many amendments tinkering with how we protect the rights of the poor. I think that inevitably is going to fail because we are not smart enough to tinker with the work requirements.

Quite frankly, I have been supportive of a work requirement as an agreement to come into public housing, very, very reluctantly and not enthusiastically, because I am convinced that the management of a work program of 8 hours a month is going to outcost everything that we are doing.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I would like to simply address something the gentleman from Texas said a moment ago. He said that while if we lower taxes, if we had lower interest rates, if we changed our general economics, you would do a lot for housing for the poor. Maybe and maybe not. I am not going to address that.

The fact of the matter is that whatever we do in our general policies, maybe eventually if we change them in the right direction, I tend not to agree with the gentleman as to what the right direction is, maybe eventually we would be providing, the private sector would be building more housing for the poor. It would be very nice if that were so and if that could be made so.

But the fact is that today in many, many areas of the country, maybe in the whole country, I do not know, but certainly in many areas of the country, it is simply impossible for the private sector without subsidy to produce

housing affordable by low income working people, not to mention by people who may be on public assistance or on SSI or disabled or what have you.

It simply is impossible in many areas of the country today for the private sector, and they will tell you that, any builder in New York or any place, in many places, they will tell you that given the cost of building, the cost of land, the cost of money, the cost of labor, et cetera, they cannot build housing other than for upper income people and maybe the top of the middle class, certainly not for low income people.

As long as that is true, we are going to need government subsidized housing programs for low income and moderate income people. That was the basic idea of the Housing Act of 1937. That is still the basic idea of public policy today. I hope it remains so, that it is ultimately our responsibility, as a collective people represented through government, to help those who, given their best efforts, cannot help themselves.

Should we require their best efforts? Of course. But for those who may be working at minimum wage jobs or even at jobs that pay \$10 an hour, \$11 an hour and cannot afford housing in the private market, we should help them. It is our duty to help them, to the extent that they cannot help themselves, because everybody has a right, assuming they contribute what they can, to food and clothing and shelter. I would add health care.

Public housing may have been conceived in 1937 initially. I was not around. It may have been conceived initially as temporary until the Depression was over, until things changed. But the fact is that we need public housing today and we need it on a permanent basis for many, many people who cannot and will not be able to earn enough money to get out of it, to pay for decent housing in the private sector.

For working people, this amendment is a bad idea if it were applied to them, but there are also people who are not working. What about someone who is 45 years old and is disabled? We just passed welfare reform. Under the welfare reform bill, people are mandatorily kicked off the welfare rolls after 5 years.

Now, we did not pass sufficient job training funding to enable these people, all of them or most of them, to get decent jobs. We did not pass sufficient child care funding to enable single mothers with children, all of them or most of them, to be able to take care, to have someplace secure to put their kids in a decent environment when they go to work. Those things we did not do. They are too expensive.

Now to add that someone who is on welfare, who is trying to get off welfare, who is trying to get a job and we have a 4.9-percent official unemploy-

ment rate in this country, the lowest it has been in decades, but what is really a 12-percent unemployment rate, if we count the people who are not officially in the job market because they have been discouraged, they could not find a job for 6 months or 8 months or 1 year and stop looking, for the people who never got into it because they have no marketable skills where they dropped out of high school and they are on street corners hustling or something, if we count those who are employed part time when they need full-time jobs, the real unemployment rate in terms of people who need jobs, want jobs and cannot get them is probably closer to 12 percent.

As long as that is true, until we find a way of telling Mr. Greenspan that when we have higher economic growth, it is a good thing, not a terrible thing, that creating more jobs or higher wages is a good thing, not a bad thing, until we change those policies, until we can generate jobs for whoever wants them, we have a need for welfare programs. We have a need for low income housing programs without time cutoffs and certainly that goes for working people.

So let us address those problems. Because what happens under the Moran amendment to someone who may not be working, is trying to find a job and cannot and is thrown off welfare and is thrown out of their home?

Mr. Chairman, I submit this is not a very well targeted amendment, although well intentioned.

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Mr. KENNEDY of Massachusetts. Mr. Chairman, I ask unanimous consent that, first, the gentleman from Virginia [Mr. MORAN], be given 3 minutes to respond to some of the issues that have been brought up and perhaps be able to work out this amendment with the gentleman from New York [Mr. LAZIO].

I also would have a question of the gentleman from New York with regard to what the gentleman's intentions are for the rest of the day, if in fact this amendment can be dealt with in the next few minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts [Mr. KENNEDY] that the gentleman from Virginia [Mr. MORAN] be given 3 additional minutes to speak in addition to the time he has already spent?

There was no objection.

Mr. KENNEDY of Massachusetts. Mr. Chairman, would it be appropriate if we could clarify with the gentleman from New York what the intent of the chairman would be for the next half-hour or so?

The CHAIRMAN. The gentleman from Virginia [Mr. MORAN] has the floor.

Mr. LAZIO of New York. Mr. Chairman, may I be recognized for a unanimous-consent request?

The CHAIRMAN. Does the gentleman from Virginia [Mr. MORAN] yield for a unanimous-consent request?

Mr. MORAN of Virginia. Mr. Chairman, I yield to the chairman for a unanimous-consent request.

Mr. LAZIO of New York. I thank the gentleman for yielding. I was going to ask for a unanimous consent to give us additional time, but if I can take some of the gentleman's time, I will be glad to extend that if he needs additional time.

It is my intention that we rise in about 10 or 15 minutes, or 2 p.m., to conduct the other business of the House and that we reconvene.

I know the gentleman is enthusiastically looking forward to finishing this bill, and we are hopeful of addressing it again tomorrow and I hope we can wrap it up tomorrow.

I think the gentleman's amendment which might be next might be best held off until tomorrow. I am happy to start it now, but I think for continuity purposes, the gentleman from Massachusetts may want to have his amendment heard tomorrow.

Mr. KENNEDY of Massachusetts. If the gentleman from Virginia will yield, but the only concern I have is that sometimes what we might see happen is not get to this targeting amendment tomorrow but rather sometime on Tuesday, prior to when the vast majority of the membership comes back.

I know that the floor manager over there, from the office of the gentleman from Texas [Mr. ARMEY], would never think of doing such a thing, but nevertheless we might fall into that category, which would be unfortunate because I do think this gets to the heart of the debate.

So I want to work out with the chairman some assurance that we would have an opportunity to debate this.

Mr. LAZIO of New York. Mr. Chairman, I cannot imagine that virtually every Member on this side of the aisle would not want to be present to hear the gentleman from Massachusetts make his case on his amendment, so I think the gentleman's concern is probably unfounded.

Mr. KENNEDY of Massachusetts. I thank the gentleman, Mr. Chairman.

Mr. MORAN of Virginia. Mr. Chairman, I ask unanimous consent to strike the requisite number of words, at which time I think we would conclude debate on this amendment. That would be my purpose.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. MORAN of Virginia. Mr. Chairman, first of all, as the gentleman from Massachusetts suggested, there are some issues that need to be cleared up.

My two friends and colleagues on my side have entered a good deal of rhetorical information into this debate. Some

of it was not specific to this particular amendment, though, I would suggest. In the first place, we talk about punishing low-income families, and I would suggest to the gentleman from Massachusetts that while there are 1 million low-income families who are in publicly assisted housing, there are three times that many who are equally low-income who are not in publicly assisted housing. And if we are talking about punishing people, those people are effectively being punished by being denied assisted housing, and that is the purpose of this amendment.

Mr. KENNEDY of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I would point out briefly that that gets to the heart of this debate, and that is ultimately what H.R. 2 is about, is picking up the pieces after we have cut the housing budget in this country last year with no debate, no hearings, from \$28 to \$20 billion.

When we do that, then ultimately we are not going to ever get to meeting the needs of the millions of families that the gentleman is talking about. But the gentleman's amendment is not going to do anything more to meet those needs.

Mr. MORAN of Virginia. Mr. Chairman, reclaiming my time, I thank the gentleman for his comments on the underlying bill. They are not particularly pertinent to this particular amendment because this amendment opens up access to people. It only applies when there are equally deserving people who have not had the access to assisted housing, many of whom are paying 50 percent of their income.

I would suggest to my colleague from New York, when he talks about handicapped people, and so on, being affected, they are all exempted from this amendment, the handicapped, the elderly. There are a number of exceptions. I would suggest to my colleague to read the amendment and he will be assured of that fact.

Now, let me address myself to the comments of the chairman. The chairman suggested that passage of this bill might be jeopardized by inclusion of this amendment. I think this amendment might very well pass within the House, but he may very well be right and I would accept his judgment in terms of enactment. I want this bill to be enacted, and I would just like to take a couple of minutes to tell my colleagues why.

I lost a very close friend in Alexandria who was a police officer. He was shot in a public housing project at a place, a unit, which had been dealing drugs for years. It was an intergenerational business, apparently. We were helpless to do anything about it. And I will never forget his wife at the hospital looking up to me and say-

ing how will I ever tell his two sons that daddy will never come home again. And the reason that happened is because we did not act responsibly on publicly assisted housing.

This does. The many screening and eviction procedures that are allowed under this bill are absolutely necessary, and the people that they benefit the most, the most, are people living in publicly assisted communities. They desperately need the housing authority to exercise responsible judgments and to exclude people who are going to tear down the quality of life for a lot of them, to exclude criminals and drug addicts and people who are drug dealers. That needs to be done. It will be done by this bill.

There are a number of other provisions in this bill which make a lot of sense. They are more important than this particular provision, as important as I think this is. I will leave this at this, this amendment, but I would ask the gentleman from New York, if I do withdraw it at this time, would the gentleman attempt to get some type of pilot demonstration program within the conference that might enable us to get some experience on how such an amendment would work?

Mr. LAZIO of New York. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from New York.

Mr. LAZIO of New York. Mr. Chairman, I think that the gentleman's idea and obviously his passion are right on the mark, and I will do whatever I can to work in conference, if this bill is adopted, and I am hopeful it will, with the VA's strong support, that we will be able to begin to make some headway and create some type of demonstration project so that we can establish that this works just the way the gentleman says it will.

I will also commit to the gentleman that if for any reason that does not bear fruit, and I am hopeful that it will and I will fight for it, that we will hold hearings, my committee will hold hearings and I hope the gentleman will testify before that hearing.

Mr. MORAN of Virginia. With that assurance, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Virginia [Mr. MORAN] is withdrawn.

Mr. BLUNT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had intended to come and speak in favor of the amendment. I would now speak in favor of the demonstration project idea if the amendment is to be withdrawn. I was the chairman of the Missouri Housing Development Commission for some

time. We worked with housing authorities. We had even in 1985 a billion dollars in bonded obligations to assist with housing.

I think we stand here today with a housing program that is well-intentioned but has failed. It has become a place where people go and stay not because of disability or age or infirmity, but because of no sense of being able to leave that system or having to leave that system.

I think the idea of rotating people in and out of public housing, being sure that all people have access to public housing that would qualify for public housing, and also effectively giving notice to people who move into public housing on the first day that they are likely not there to stay, that there is some end in sight to their being in that particular subsidized environment, is a positive aspect.

I think the problems we see in public housing with crime, with a lack of role model, with a life based on that kind of dependence on a government program, is largely eliminated by the concept that the gentleman from Virginia has offered as an amendment and now offers as a pilot program, that we look to see what would happen if, in fact, people are on a list, not only a waiting list for public housing, but a list that would have some opportunity to really become part of that system, a system where people are moving in and out as they move toward more and more independence; a system which, as the bill of the gentleman from New York, allows people to seek greater economic opportunity without being penalized for that opportunity by agreeing to a fixed rent instead of 30 percent of their income. Whatever their income is, of course, they would still have that option.

I think we see a housing program, again, that was well-intentioned, that has not worked as it should work. It is time to make that program work better. And under this proposal, this is not a proposal that eliminates funding for public housing. In fact, this is a proposal that substantially increases funding for public housing. It just makes a commitment for housing that works better; makes a commitment for housing that does not lead to the many problems that people that are in public housing today have been victims of.

I think the bill is a good bill. I thought the amendment was a good amendment. I want to speak in favor of the gentleman's idea that there be a pilot in this bill that would allow that to become part of what we are trying to do in housing and let us see if it works, Mr. Chairman.

Mr. MORAN of Virginia. Mr. Chairman, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I want to thank the gentleman for his remarks, his insight and for

sharing his experience with the Missouri Housing Authority with us. I thank the gentleman for his remarks.

The CHAIRMAN. If there are no further amendments to title II, the Clerk will designate title III.

The text of title III is as follows:

**TITLE III—CHOICE-BASED RENTAL HOUSING AND HOMEOWNERSHIP ASSISTANCE FOR LOW-INCOME FAMILIES**

**SUBTITLE A—ALLOCATION**

**SEC. 301. AUTHORITY TO PROVIDE HOUSING ASSISTANCE AMOUNTS.**

To the extent that amounts to carry out this title are made available, the Secretary may enter into contracts with public housing agencies for each fiscal year to provide housing assistance under this title.

**SEC. 302. CONTRACTS WITH PHA'S.**

(a) **CONDITION OF ASSISTANCE.**—The Secretary may provide amounts under this title to a public housing agency for a fiscal year only if the Secretary has entered into a contract under this section with the public housing agency, under which the Secretary shall provide such agency with amounts (in the amount of the allocation for the agency determined pursuant to section 304) for housing assistance under this title for low-income families.

(b) **USE FOR HOUSING ASSISTANCE.**—A contract under this section shall require a public housing agency to use amounts provided under this title to provide housing assistance in any manner authorized under this title.

(c) **ANNUAL OBLIGATION OF AUTHORITY.**—A contract under this title shall provide amounts for housing assistance for 1 fiscal year covered by the contract.

(d) **ENFORCEMENT OF HOUSING QUALITY REQUIREMENTS.**—Each contract under this section shall require the public housing agency administering assistance provided under the contract—

(1) to ensure compliance, under each housing assistance payments contract entered into pursuant to the contract under this section, with the provisions of the housing assistance payments contract included pursuant to section 351(c)(4); and

(2) to establish procedures for assisted families to notify the agency of any noncompliance with such provisions.

**SEC. 303. ELIGIBILITY OF PHA'S FOR ASSISTANCE AMOUNTS.**

The Secretary may provide amounts available for housing assistance under this title pursuant to the formula established under section 304(a) to a public housing agency only if—

(1) the agency has submitted a local housing management plan to the Secretary for such fiscal year and applied to the Secretary for such assistance;

(2) the plan has been determined to comply with the requirements under section 106 and the Secretary has not notified the agency that the plan fails to comply with such requirements;

(3) no member of the board of directors or other governing body of the agency, or the executive director, has been convicted of a felony; and

(4) the agency has not been disqualified for assistance pursuant to title V.

**SEC. 304. ALLOCATION OF AMOUNTS.**

(a) **FORMULA ALLOCATION.**—

(1) **IN GENERAL.**—When amounts for assistance under this title are first made available for reservation, after reserving amounts in accordance with subsections (b)(3) and (c), the Secretary shall allocate such amounts,

only among public housing agencies meeting the requirements under this title to receive such assistance, on the basis of a formula that is established in accordance with paragraph (2) and based upon appropriate criteria to reflect the needs of different States, areas, and communities, using the most recent data available from the Bureau of the Census of the Department of Commerce and the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (or any consolidated plan incorporating such strategy) for the applicable jurisdiction. The Secretary may establish a minimum allocation amount, in which case only the public housing agencies that, pursuant to the formula, are provided an amount equal to or greater than the minimum allocation amount, shall receive an allocation.

(2) **REGULATIONS.**—The formula under this subsection shall be established by regulation issued by the Secretary. Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, any proposed regulation containing such formula shall be issued pursuant to a negotiated rulemaking procedure under subchapter III of chapter 5 of such title and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations.

(b) **ALLOCATION CONSIDERATIONS.**—

(1) **LIMITATION ON REALLOCATION FOR ANOTHER STATE.**—Any amounts allocated for a State or areas or communities within a State that are not likely to be used within the fiscal year for which the amounts are provided shall not be reallocated for use in another State, unless the Secretary determines that other areas or communities within the same State (that are eligible for amounts under this title) cannot use the amounts within the same fiscal year.

(2) **EFFECT OF RECEIPT OF TENANT-BASED ASSISTANCE FOR DISABLED FAMILIES.**—The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, or the amount received, in approving amounts under this title for the agency or in determining the amount of such assistance to be provided to the agency.

(3) **EXEMPTION FROM FORMULA ALLOCATION.**—The formula allocation requirements of subsection (a) shall not apply to any assistance under this title that is approved in appropriation Acts of uses that the Secretary determines are incapable of geographic allocation, including amendments of existing housing assistance payments contracts, renewal of such contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the housing assistance payments contract, assistance to prevent displacement from public or assisted housing or to provide replacement housing in connection with the demolition or disposition of public housing, assistance for relocation from public housing, assistance in connection with protection of crime witnesses, assistance for conversion from leased housing contracts under section 23 of the United States Housing Act of 1937 (as in effect before the enactment of the Housing and Community Development Act of 1974), and assistance in support of the property disposition and portfolio management functions of the Secretary.

(c) **RECAPTURE OF AMOUNTS.**—

(1) **AUTHORITY.**—In each fiscal year, from any budget authority made available for assistance under this title or section 8 of the

United States Housing Act of 1937 (as in effect before the effective date of the repeal under section 601(b) of this Act) that is obligated to a public housing agency but remains unobligated by the agency upon the expiration of the 8-month period beginning upon the initial availability of such amounts for obligation by the agency, the Secretary may deobligate an amount, as determined by the Secretary, not exceeding 50 percent of such unobligated amount.

(2) **USE.**—The Secretary may reallocate and transfer any amounts deobligated under paragraph (1) only to public housing agencies in areas that the Secretary determines have received less funding than other areas, based on the relative needs of all areas.

#### SEC. 305. ADMINISTRATIVE FEES.

(a) **FEE FOR ONGOING COSTS OF ADMINISTRATION.**—

(1) **IN GENERAL.**—The Secretary shall establish fees for the costs of administering the choice-based housing assistance program under this title.

(2) **FISCAL YEAR 1998.**—

(A) **CALCULATION.**—For fiscal year 1998, the fee for each month for which a dwelling unit is covered by a contract for assistance under this title shall be—

(i) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(ii) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units—

(I) for the first 600 units, 7.65 percent of the base amount; and

(II) for any additional dwelling units under the program, 7.0 percent of the base amount.

(B) **BASE AMOUNT.**—For purposes of this paragraph, the base amount shall be the higher of—

(i) the fair market rental established under section 8(c) of the United States Housing Act of 1937 (as in effect immediately before the effective date of the repeal under section 601(b) of this Act) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

(ii) the amount that is the lesser of (I) such fair market rental for fiscal year 1994 or (II) 103.5 percent of the amount determined under clause (i),

adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

(3) **SUBSEQUENT FISCAL YEARS.**—For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

(4) **INCREASE.**—The Secretary may increase the fee is necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

(b) **FEE FOR PRELIMINARY EXPENSES.**—The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(i) the costs of preliminary expenses, in the amount of \$500, for a public housing agency, but only in the first year that the agency administers a choice-based housing assistance program under this title, and only

if, immediately before the effective date of this Act, the agency was not administering a tenant-based rental assistance program under the United States Housing Act of 1937 (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

(2) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

(3) extraordinary costs approved by the Secretary.

(c) **TRANSFER OF FEES IN CASES OF CONCURRENT GEOGRAPHICAL JURISDICTION.**—In each fiscal year, if any public housing agency provides tenant-based rental assistance under section 8 of the United States Housing Act of 1937 or housing assistance under this title on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdictional of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

#### SEC. 306. AUTHORIZATIONS OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated for providing public housing assistance under this title, such sums as may be necessary for each of fiscal years 1998, 2000, 2001, and 2002 to provide amounts for incremental assistance under this title, for renewal of expiring contracts under section 302 of this Act and renewal under this title of expiring contracts for tenant-based rental assistance under section 8 of the United States Housing Act of 1937 (as in effect the effective date of the repeal under section 601(b) of this Act), and for replacement needs for public housing under title II.

(b) **ASSISTANCE FOR DISABLED FAMILIES.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated, for choice-based housing assistance under this title to be used in accordance with paragraph (2), \$50,000,000 for fiscal year 1998, and such sums as may be necessary for each subsequent fiscal year.

(2) **USE.**—The Secretary shall provide amounts made available under paragraph (1) to public housing agencies only for use to provide housing assistance under this title for nonelderly disabled families (including such families relocating pursuant to designation of a public housing development under section 227 or the establishment of occupancy restrictions in accordance with section 658 of the Housing and Community Development Act of 1992 and other nonelderly disabled families who have applied to the agency for housing assistance under this title).

(3) **ALLOCATION OF AMOUNTS.**—The Secretary shall allocate and provide amounts made available under paragraph (1) to public housing agencies as the Secretary determines appropriate based on the relative levels of need among the authorities for assistance for families described in paragraph (1).

(c) **ASSISTANCE FOR WITNESS RELOCATION.**—Of the amounts made available for choice-based housing assistance under this title for each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for such housing assistance for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement and prosecutive agencies.

#### SEC. 307. CONVERSION OF SECTION 8 ASSISTANCE.

(a) **IN GENERAL.**—Any amounts made available to a public housing agency under a contract for annual contributions for assistance under section 8 of the United States Housing Act of 1937 (as in effect before the effective date of the repeal under section 601(b) of this Act) that have not been obligated for such assistance by such agency before such effective date shall be used to provide assistance under this title, except to the extent the Secretary determines such use is inconsistent with existing commitments.

(b) **EXCEPTION.**—Subsection (a) shall not apply to any amounts made available under a contract for housing constructed or substantially rehabilitated pursuant to section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983.

#### SEC. 308. RECAPTURE AND REUSE OF ANNUAL CONTRACT PROJECT RESERVES UNDER CHOICE-BASED HOUSING ASSISTANCE AND SECTION 8 TENANT-BASED ASSISTANCE PROGRAMS.

To the extent that the Secretary determines that the amount in the reserve account for annual contributions contracts (for housing assistance under this title or tenant-based assistance under section 8 of the United States Housing Act of 1937) that is under contract with a public housing agency for such assistance is in excess of the amounts needed by the agency, the Secretary shall recapture such excess amount. The Secretary may hold recaptured amounts in reserve until needed to enter into, amend, or renew contracts under this title or to amend or renew contracts under section 8 of such Act for tenant-based assistance with any agency.

#### SUBTITLE B—CHOICE-BASED HOUSING ASSISTANCE FOR ELIGIBLE FAMILIES

#### SEC. 321. ELIGIBLE FAMILIES AND PREFERENCES FOR ASSISTANCE.

(a) **LOW-INCOME REQUIREMENT.**—Housing assistance under this title may be provided only on behalf of a family that—

(1) at the time that such assistance is initially provided on behalf of the family, is determined by the public housing agency to be a low-income family; or

(2) qualifies to receive such assistance under any other provision of Federal law.

(b) **INCOME TARGETING.**—Of the families initially assisted under this title by a public housing agency in any year, not less than 40 percent shall be families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families. The Secretary may establish income ceiling higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(c) **REVIEWS OF FAMILY INCOMES.**—

(1) **IN GENERAL.**—Reviews of family incomes for purposes of this title shall be subject to the provisions of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and shall be conducted upon the initial provision of housing assistance for the family and thereafter not less than annually.

(2) **PROCEDURES.**—Each public housing agency administering housing assistance under this title shall establish procedures that are appropriate and necessary to ensure that income data provided to the agency and owners by families applying for or receiving housing assistance from the agency is complete and accurate.

## (d) PREFERENCES FOR ASSISTANCE.—

(1) AUTHORITY TO ESTABLISH.—Any public housing agency that receives amounts under this title may establish a system for making housing assistance available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics.

(2) CONTENT.—Each system of preferences established pursuant to this subsection shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 106(e) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, public housing agencies involved in the selection of tenants under the provisions of this title should adopt preferences for individuals who are victims of domestic violence.

## (e) PORTABILITY OF HOUSING ASSISTANCE.—

(1) NATIONAL PORTABILITY.—An eligible family that is selected to receive or is receiving assistance under this title may rent any eligible dwelling unit in any area where a program is being administered under this title. Notwithstanding the preceding sentence, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency. The agency for the jurisdiction into which the family moves shall have the responsibility for administering assistance for the family.

(2) SOURCE OF FUNDING FOR A FAMILY THAT MOVES.—For a family that has moved into the jurisdiction of a public housing agency and that, at the time of the move, has been selected to receive, or is receiving, assistance provided by another agency, the agency for the jurisdiction into which the family has moved may, in its discretion, cover the cost of assisting the family under its contract with the Secretary or through reimbursement from the other agency under that agency's contract.

(3) AUTHORITY TO DENY ASSISTANCE TO CERTAIN FAMILIES WHO MOVE.—A family may not receive housing assistance as provided under this subsection if the family has moved from a dwelling unit in violation of the lease for the dwelling unit.

(4) FUNDING ALLOCATIONS.—In providing assistance amounts under this title for public housing agencies for any fiscal year, the Secretary may give consideration to any reduction or increase in the number of resident families under the program of an agency in the preceding fiscal year as a result of this subsection.

(f) CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE.—A public housing agency shall be subject to the restrictions regarding release of information relating to the identity and new residence of any family receiving housing assistance who was a victim of domestic violence that are applicable to shelters pursuant to the Family Violence Prevention and Services Act. The agency shall work with the United States Postal Service to establish procedures consistent with the confidentiality provisions in the Violence Against Women Act of 1994.

## SEC. 322. RESIDENT CONTRIBUTION.

## (a) AMOUNT.—

(1) MONTHLY RENT CONTRIBUTION.—An assisted family shall contribute on a monthly basis for the rental of an assisted dwelling unit an amount that the public housing agency determines is appropriate with respect to the family and the unit, but which—

(A) shall not be less than the minimum monthly rental contribution determined under subsection (b); and

(B) shall not exceed the greatest of—

(i) 30 percent of the monthly adjusted income of the family;

(ii) 10 percent of the monthly income of the family; and

(iii) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by such agency to meet the housing costs of the family, the portion of such payments that is so designated.

(2) EXCESS RENTAL AMOUNT. In any case in which the monthly rent charged for a dwelling unit pursuant to the housing assistance payments contract exceeds the applicable payment standard (established under section 353) for the dwelling unit, the assisted family residing in the unit shall contribute (in addition to the amount of the monthly rent contribution otherwise determined under paragraph (1) for such family) such entire excess rental amount.

(b) MINIMUM MONTHLY RENTAL CONTRIBUTION.—

(1) IN GENERAL.—The public housing agency shall determine the amount of the minimum monthly rental contribution of an assisted family (which rent shall include any amount allowed for utilities), which—

(A) shall be based upon factors including the adjusted income of the family and any other factors that the agency considers appropriate;

(B) shall be not less than \$25, nor more than \$50; and

(C) may be increased annually by the agency, except that no such annual increase may exceed 10 percent of the amount of the minimum monthly contribution in effect for the preceding year.

## (2) HARDSHIP PROVISIONS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), a public housing agency shall grant an exemption in whole or in part from payment of the minimum monthly rental contribution established under this paragraph to any assisted family unable to pay such amount because of financial hardship, which shall include situations in which (i) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program; (ii) the family would be evicted as a result of imposition of the minimum rent; (iii) the income of the family has decreased because of changed circumstance, including loss of employment; and (iv) a death in the family has occurred; and other situations as may be determined by the agency.

(B) WAITING PERIOD.—If an assisted family requests a hardship exemption under this paragraph and the public housing agency reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. An assisted family may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the assisted family thereafter demonstrates that the financial hardship is of a long-term

basis, the agency shall retroactively exempt the family from the applicability of the minimum rent requirement for such 90-day period.

## (c) TREATMENT OF CHANGES IN RENTAL CONTRIBUTION.—

(1) NOTIFICATION OF CHANGES.—A public housing agency shall promptly notify the owner of an assisted dwelling unit of any change in the resident contribution by the assisted family residing in the unit that takes effect immediately or at a later date.

(2) COLLECTION OF RETROACTIVE CHANGES.—In the case of any change in the rental contribution of an assisted family that affects rental payments previously made, the public housing agency shall collect any additional amounts required to be paid by the family under such change directly from the family and shall refund any excess rental contribution paid by the family directly to the family.

## (d) PHASE-IN OF RENT CONTRIBUTION INCREASES.—

(1) IN GENERAL.—Except as provided in paragraph (2), for any family that is receiving tenant-based rental assistance under section 8 of the United States Housing Act of 1937 upon the initial applicability of the provisions of this title to such family, if the monthly contribution for rental of an assisted dwelling unit to be paid by the family upon such initial applicability is greater than the amount paid by the family under the provisions of the United States Housing Act of 1937 immediately before such applicability, any such resulting increase in rent contribution shall be—

(A) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more of such contribution before initial applicability; and

(B) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent of such contribution before initial applicability.

(2) EXCEPTION.—The minimum rent contribution requirement under subsection (b)(1) shall apply to each family described in paragraph (1) of this subsection, notwithstanding such paragraph.

## SEC. 323. RENTAL INDICATORS.

(a) IN GENERAL.—The Secretary shall establish and issue rental indicators under this section periodically, but not less than annually, for existing rental dwelling units that are eligible dwelling units. The Secretary shall establish and issue the rental indicators by housing market area (as the Secretary shall establish) for various sizes and types of dwelling units.

(b) AMOUNT.—For a market area, the rental indicator established under subsection (a) for a dwelling unit of a particular size and type in the market area shall be a dollar amount that reflects the rental amount for a standard quality rental unit of such size and type in the market area that is an eligible dwelling unit.

(c) EFFECTIVE DATE.—The Secretary shall cause the proposed rental indicators established under subsection (a) for each market area to be published in the Federal Register with reasonable time for public comment, and such rental indicators shall become effective upon the date of publication in final form in the Federal Register.

(d) ANNUAL ADJUSTMENT.—Each rental indicator in effect under this section shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so that the indicators will be current for the year to which they apply, in rents for existing rental dwelling units of various sizes and types in the

market area suitable for occupancy by families assisted under this title.

#### SEC. 324. LEASE TERMS.

Rental assistance may be provided for an eligible dwelling unit only if the assisted family and the owner of the dwelling unit enter into a lease for the unit that—

(1) provides for a single lease term of 12 months and continued tenancy after such term under a periodic tenancy on a month-to-month basis;

(2) contains terms and conditions specifying that termination of tenancy during the term of a lease shall be subject to the provisions set forth in sections 642 and 643; and

(3) is set forth in the standard form, which is used in the local housing market area by the owner and applies generally to any other tenants in the property who are not assisted families, together with any addendum necessary to include the many terms required under this section.

A lease may include any addenda appropriate to set forth the provisions under this title.

#### SEC. 325. TERMINATION OF TENANCY.

Each housing assistance payments contract shall provide that the owner shall conduct the termination of tenancy of any tenant of an assisted dwelling unit under the contract in accordance with applicable State or local laws, including providing any notice of termination required under such laws.

#### SEC. 326. ELIGIBLE OWNERS.

(a) **OWNERSHIP ENTITY.**—Rental assistance under this title may be provided for any eligible dwelling unit for which the owner is any public agency, private person or entity (including a cooperative), nonprofit organization, agency of the Federal Government, or public housing agency.

(b) **INELIGIBLE OWNERS.**—

(1) **IN GENERAL.**—Notwithstanding subsection (a), a public housing agency—

(A) may not enter into a housing assistance payments contract (or renew an existing contract) covering a dwelling unit that is owned by an owner who is debarred, suspended, or subject to limited denial of participation under part 24 of title 24, Code of Federal Regulations;

(B) may prohibit, or authorize the termination or suspension of, payment of housing assistance under a housing assistance payments contract in effect at the time such debarment, suspension, or limited denial of participation takes effect.

If the public housing agency takes action under subparagraph (B), the agency shall take such actions as may be necessary to protect assisted families who are affected by the action, which may include the provision of additional assistance under this title to such families.

(2) **PROHIBITION OF SALE OR RENTAL TO RELATED PARTIES.**—The Secretary shall establish guidelines to prevent housing assistance payments for a dwelling unit that is owned by any spouse, child, or other party who allows an owner described in paragraph (1) to maintain control of the unit.

#### SEC. 327. SELECTION OF DWELLING UNITS.

(a) **FAMILY CHOICE.**—The determination of the dwelling unit in which an assisted family resides and for which housing assistance is provided under this title shall be made solely by the assisted family, subject to the provisions of this title and any applicable law.

(b) **DEED RESTRICTIONS.**—Housing assistance may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. Nothing in this section may be construed to affect the provisions of applicability of the Fair Housing Act.

#### SEC. 328. ELIGIBLE DWELLING UNITS.

(a) **IN GENERAL.**—A dwelling unit shall be an eligible dwelling unit for purposes of this title only if the public housing agency to provide housing assistance for the dwelling unit determines that the dwelling unit—

(1) is an existing dwelling unit that is not located within a nursing home or the grounds of any penal, reformatory, medical, mental, or similar public or private institution; and

(2) complies—

(A) in the case of a dwelling unit located in a jurisdiction which has in effect laws, regulations, standards, or codes regarding habitability of residential dwellings, with such applicable laws, regulations, standards, or codes; or

(B) in the case of a dwelling unit located in a jurisdiction which does not have in effect laws, regulations, standards, or codes described in subparagraph (A), with the housing quality standards established under subsection (c).

Each public housing agency providing housing assistance shall identify, in the local housing management plan for the agency, whether the agency is utilizing the standard under subparagraph (A) or (B) of paragraph (2).

(b) **DETERMINATIONS.**—

(1) **IN GENERAL.**—A public housing agency shall make the determinations required under subsection (a) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit.

(2) **EXPEDITIOUS INSPECTION.**—Inspections of dwelling units under this subsection shall be made before the expiration of the 15-day period beginning upon a request by the resident or landlord to the public housing agency. The performance of the agency in meeting the 15-day inspection deadline shall be taken into account in assessing the performance of the agency.

(c) **FEDERAL HOUSING QUALITY STANDARDS.**—The Secretary shall establish housing quality standards under this subsection that ensure that assisted dwelling units are safe, clean, and healthy. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 232(b). The Secretary shall differentiate between major and minor violations of such standards.

(d) **ANNUAL INSPECTIONS.**—Each public housing agency providing housing assistance shall make an annual inspection of each assisted dwelling unit during the term of the housing assistance payments contracts for the unit to determine whether the unit is maintained in accordance with the requirements under subsection (a)(2). The agency shall retain the records of the inspection for a reasonable time and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 541.

(e) **INSPECTION GUIDELINES.**—The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public housing agencies and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this title.

(f) **RULE OF CONSTRUCTION.**—This section may not be construed to prevent the provision of housing assistance in connection with supportive services for elderly or disabled families.

#### SEC. 329. HOMEOWNERSHIP OPTION.

(a) **IN GENERAL.**—A public housing agency providing housing assistance under this title may provide homeownership assistance to assist eligible families to purchase a dwelling unit (including purchase under lease-purchase homeownership plans).

(b) **REQUIREMENTS.**—A public housing agency providing homeownership assistance under this section shall, as a condition of an eligible family receiving such assistance, require the family to—

(1) demonstrate that the family has sufficient income from employment or other sources (other than public assistance), as determined in accordance with requirements established by the agency; and

(2) meet any other initial or continuing requirements established by the public housing agency.

(c) **DOWNPAYMENT REQUIREMENT.**—

(1) **IN GENERAL.**—A public housing agency may establish minimum downpayment requirements, if appropriate, in connection with loans made for the purchase of dwelling units for which homeownership assistance is provided under this section. If the agency establishes a minimum downpayment requirement, the agency shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase, subject to the requirement of paragraph (2).

(2) **DIRECT FAMILY CONTRIBUTION.**—In purchasing housing pursuant to this section subject to a downpayment requirement, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

(d) **INELIGIBILITY UNDER OTHER PROGRAMS.**—A family may not receive homeownership assistance pursuant to this section during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 502 of the Housing Act of 1949.

#### SEC. 330. ASSISTANCE FOR RENTAL OR MANUFACTURED HOMES.

(a) **AUTHORITY.**—Nothing in this title may be construed to prevent a public housing agency from providing housing assistance under this title on behalf of a low-income family for the rental of—

(1) a manufactured home that is the principal residence of the family and the real property on which the home is located; or

(2) the real property on which is located a manufactured home, which is owned by the family and is the principal residence of the family.

(b) **ASSISTANCE FOR CERTAIN FAMILIES OWNING MANUFACTURED HOMES.**—

(1) **AUTHORITY.**—Notwithstanding section 351 or any other provision of this title, a public housing agency that receives amounts under a contract under section 302 may enter into a housing assistance payment contract to make assistance payments under this title to a family that owns a manufactured home, but only as provided in paragraph (2).

(2) LIMITATIONS.—In the case only of a low-income family that owns a manufactured home, rents the real property on which it is located, and to whom housing assistance under this title has been made available for the rental of such property, the public housing agency making such assistance available shall enter into a contract to make housing assistance payments under this title directly to the family (rather than to the owner of such real property) if—

(A) the owner of the real property refuses to enter into a contract to receive housing assistance payments pursuant to section 351(a);

(B) the family was residing in such manufactured home on such real property at the time such housing assistance was initially made available on behalf of the family;

(C) the family provides such assurances to the agency, as the Secretary may require, to ensure that amounts from the housing assistance payments are used for rental of the real property; and

(D) the rental of the real property otherwise complies with the requirements for assistance under this title.

A contract pursuant to this subsection shall be subject to the provisions of section 351 and any other provisions applicable to housing assistance payments contracts under this title, except that the Secretary may provide such exceptions as the Secretary considers appropriate to facilitate the provisions of assistance under this subsection.

**SUBTITLE C—PAYMENT OF HOUSING ASSISTANCE ON BEHALF OF ASSISTED FAMILIES**  
**SEC. 351. HOUSING ASSISTANCE PAYMENTS CONTRACTS.**

(a) IN GENERAL.—Each public housing agency that received amounts under a contract under section 302 may enter into housing assistance payments contracts with owners of existing dwelling units to make housing assistance payments to such owners in accordance with this title.

(b) PHA ACTING AS OWNER.—A public housing agency may enter into a housing assistance payments contract to make housing assistance payments under this title to itself (or any agency or instrumentality thereof) as the owner of dwelling units (other than public housing), and the agency shall be subject to the same requirements that are applicable to other owners, except that the determinations under section 328(a) and 354(b) shall be made by a competent party not affiliated with the agency, and the agency shall be responsible for any expenses of such determinations.

(c) PROVISIONS.—Each housing assistance payments contract shall—

(1) have a term of not more than 12 months;

(2) require that the assisted dwelling unit may be rented only pursuant to a lease that complies with the requirements of section 324;

(3) comply with the requirements of sections 325, 642, and 643 (relating to termination of tenancy);

(4) require the owner to maintain the dwelling unit in accordance with the applicable standards under section 328(a)(2); and

(5) provide that the screening and selection of eligible families for assisted dwelling units shall be the function of the owner.

**SEC. 352. AMOUNT OF MONTHLY ASSISTANCE PAYMENT.**

(a) UNITS HAVING GROSS RENT EXCEEDING PAYMENT STANDARD.—In the case of a dwelling unit bearing a gross rent that exceeds the payment standard established under section 353 for a dwelling unit of the applicable

size and located in the market area in which such assisted dwelling unit is located, the amount of the monthly assistance payment shall be the amount by which such payment standard exceeds the amount of the resident contribution determined in accordance with section 322(a)(1).

(b) SHOPPING INCENTIVE FOR UNITS HAVING GROSS RENT NOT EXCEEDING PAYMENT STANDARD.—In the case of an assisted family renting an eligible dwelling unit bearing a gross rent that does not exceed the payment standard established under section 353 for a dwelling unit of the applicable size and located in the market area in which such assisted dwelling unit is located, the following requirements shall apply:

(1) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—The amount of the monthly assistance payment for housing assistance under this title on behalf of the assisted family shall be the amount by which the gross rent for the dwelling unit exceeds the amount of the resident contribution.

(2) ESCROW OF SHOPPING INCENTIVE SAVINGS.—An amount equal to 50 percent of the difference between payment standard and the gross rent for the dwelling unit shall be placed in an interest bearing escrow account on behalf of such family on a monthly basis by the public housing agency. Amounts in the escrow account shall be made available to the assisted family on an annual basis.

(3) DEFICIT REDUCTION.—The public housing agency making housing assistance payments on behalf of such assisted family in a fiscal year shall reserve from amounts made available to the agency for assistance payments for such fiscal year an amount equal to the amount described in paragraph (2). At the end of each fiscal year, the Secretary shall recapture any such amounts reserved by public housing agencies and such amounts shall be covered into the General Fund of the Treasury of the United States.

For purposes of this section, in the case of a family receiving homeownership assistance under section 329, the term "gross rent" shall mean the homeownership costs to the family as determined in accordance with guidelines of the Secretary.

**SEC. 353. PAYMENT STANDARDS.**

(a) ESTABLISHMENT.—Each public housing agency providing housing assistance under this title shall establish payment standards under this section for various areas, and sizes and types of dwelling units, for use in determining the amount of monthly housing assistance payment to be provided on behalf of assisted families.

(b) USE OF RENTAL INDICATORS.—The payment standard for each size and type of housing for each market area shall be an amount that is not less than 80 percent, and not greater than 120 percent, of the rental indicator established under section 323 for such size and type for such area.

(c) REVIEW.—If the Secretary determines, at any time, that a significant percentage of the assisted families who are assisted by a public housing agency and are occupying dwelling units of a particular size are paying more than 30 percent of their adjusted incomes for rent, the Secretary shall review the payment standard established by the agency for such size dwellings. If, pursuant to the review, the Secretary determines that such payment standard is not appropriate to serve the needs of the low-income population of the jurisdiction served by the agency (taking into consideration rental costs in the area), as identified in the approved community improvement plan of the agency, the Secretary may require the public housing agency to modify the payment standard.

**SEC. 354. REASONABLE RENTS.**

(a) ESTABLISHMENT.—The rent charged for a dwelling unit for which rental assistance is provided under this title shall be established pursuant to negotiation and agreement between the assisted family and the owner of the dwelling unit.

(b) REASONABLENESS.—

(1) DETERMINATION.—A public housing agency providing rental assistance under this title for a dwelling unit shall, before commencing assistance payments for a unit (with respect to initial contract rents and any rent revisions), determine whether the rent charged for the unit exceeds the rents charged for comparable units in the applicable private unassisted market.

(2) UNREASONABLE RENTS.—If the agency determines that the rent charged for a dwelling unit exceeds such comparable rents, the agency shall—

(A) inform the assisted family renting the unit that such rent exceeds the rents for comparable unassisted units in the markets; and

(B) refuse to provide housing assistance payments for such unit.

**SEC. 355. PROHIBITION OF ASSISTANCE FOR VACANT RENTAL UNITS.**

If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payments contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

**SUBTITLE D—GENERAL AND MISCELLANEOUS PROVISIONS**

**SEC. 371. DEFINITIONS.**

For purposes of this title:

(1) ASSISTED DWELLING UNIT.—The term "assisted dwelling unit" means a dwelling unit in which an assisted family resides and for which housing assistance payments are made under this title.

(2) ASSISTED FAMILY.—The term "assisted family" means an eligible family on whose behalf housing assistance payments are made under this title or who has been selected and approved for housing assistance.

(3) CHOICE-BASED.—The term "choice-based" means, with respect to housing assistance, that the assistance is not attached to a dwelling unit but can be used for any eligible dwelling unit selected by the eligible family.

(4) ELIGIBLE DWELLING UNIT.—The term "eligible dwelling unit" means a dwelling unit that complies with the requirements under section 323 for consideration as an eligible dwelling unit.

(5) ELIGIBLE FAMILY.—The term "eligible family" means a family that meets the requirements under section 321(a) for assistance under this title.

(6) HOMEOWNERSHIP ASSISTANCE.—The term "homeownership assistance" means housing assistance provided under section 329 for the ownership of a dwelling unit.

(7) HOUSING ASSISTANCE.—The term "housing assistance" means choice-based assistance provided under this title on behalf of low-income families for the rental or ownership of an eligible dwelling unit.

(8) HOUSING ASSISTANCE PAYMENTS CONTRACT.—The term "housing assistance payments contract" means a contract under section 351 between a public housing agency (or the Secretary) and an owner to make housing assistance payments under this title to the owner on behalf of an assisted family.

(9) PUBLIC HOUSING AGENCY.—The terms "public housing agency" and "agency" have

the meaning given such terms in section 103, except that the terms include—

(A) a consortia of public housing agencies that the Secretary determines has the capacity and capability to administer a program for housing assistance under this title in an efficient manner;

(B) any other entity that, upon the effective date of this Act, was administering any program for tenant-based rental assistance under section 8 of the United States Housing Act of 1937 (as in effect before the effective date of the repeal under section 601(b) of this Act), pursuant to a contract with the Secretary or a public housing agency; and

(C) with respect to any area in which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable to implement this title, or is not performing effectively—

(i) the Secretary or another entity that by contract agrees to receive assistance amounts under this title and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under this title; or

(ii) notwithstanding any provision of State or local law, a public housing agency for another area that contracts with the Secretary to administer a program for housing assistance under this title, without regard to any otherwise applicable limitations on its area of operation.

(10) OWNER.—The term "owner" means the person or entity having the legal right to lease or sublease dwelling units. Such term includes any principals, general partners, primary shareholders, and other similar participants in any entity owning a multifamily housing project, as well as the entity itself.

(11) RENT.—The terms "rent" and "rental" include, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(12) RENTAL ASSISTANCE.—The term "rental assistance" means housing assistance provided under this title for the rental of a dwelling unit.

#### SEC. 372. RENTAL ASSISTANCE FRAUD RECOVERIES.

(a) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—The Secretary shall permit public housing agencies administering housing assistance under this title to retain, out of amounts obtained by the authorities from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

(1) 50 percent of the amount actually collected; or

(2) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

(b) USE.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. If the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

(c) RECOVERY.—Amounts may be recovered under this section—

(1) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency's investigation where the agency seeks prosecution of a family or where an agency seeks prosecution of an owner;

(2) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 110; or

(3) through an agreement between the parties.

#### SEC. 373. STUDY REGARDING GEOGRAPHIC CONCENTRATION OF ASSISTED FAMILIES.

(a) IN GENERAL.—The Secretary shall conduct a study of the geographic areas in the State of Illinois served by the Housing Authority of Cook County and the Chicago Housing Authority and submit to the Congress a report and a specific proposal, which addresses and resolves the issues of—

(1) the adverse impact on local communities due to geographic concentration of assisted households under the tenant-based housing programs under section 8 of the United States Housing Act of 1937 (as in effect upon the enactment of this Act) and under this title; and

(2) facilitating the deconcentration of such assisted households by providing broader housing choices to such households.

The study shall be completed, and the report shall be submitted, not later than 90 days after the date of the enactment of this Act.

(b) CONCENTRATION.—For purposes of this section, the term "concentration" means, with respect to any area within a census tract, that—

(1) 15 percent or more of the households residing within such area have incomes which do not exceed the poverty level; or

(2) 15 percent or more of the total affordable housing stock located within such area is assisted housing.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

#### SEC. 374. STUDY REGARDING RENTAL ASSISTANCE.

The Secretary shall conduct a nationwide study of the choice-based housing assistance program under this title and the tenant-based rental assistance program under section 8 of the United States Housing Act of 1937 (as in effect pursuant to section 601(c) and 602(b)). The study shall, for various localities—

(1) determine who are the providers of the housing in which families assisted under such programs reside;

(2) describe and analyze the physical and demographic characteristics of the housing in which such assistance is used, including, for housing in which at least one such assisted family resides, the total number of units in the housing and the number of units in the housing for which such assistance is provided;

(3) determine the total number of units for which such assistance is provided;

(4) describe the durations that families remain on waiting lists before being provided such housing assistance; and

(5) assess the extent and quality of participation of housing owners in such assistance programs in relation to the local housing market, including comparing—

(A) the quality of the housing assisted to the housing generally available in the same market; and

(B) the extent to which housing is available to be occupied using such assistance to the extent to which housing is generally available in the same market.

The Secretary shall submit a report describing the results of the study to the Con-

gress not later than the expiration of the 2-year period beginning on the date of the enactment of this Act.

Mr. LAZIO of New York. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. ROGERS] having assumed the chair, Mr. GOODLATTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2) to repeal the United States Housing Act of 1937, deregulate the public housing program and the program for rental housing assistance for low-income families, and increase community control over such programs, and for other purposes, had come to no resolution thereon.

#### FLOOD PREVENTION AND FAMILY PROTECTION ACT OF 1997

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 142 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 142

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 478) to amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal agencies to comply with that Act in building, operating, maintaining, or repairing flood control projects, facilities, or structures. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Resources now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York [Ms. SLAUGHTER], pending which I yield myself such time as I might consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 142 is an open rule providing for consideration of H.R. 478, the Flood Prevention and Family Protection Act of 1997. This rule provides for 1 hour of general debate divided equally between the chairman and the ranking minority member of the Committee on Resources.

House Resolution 142 makes in order the Committee on Resources amendment in the nature of a substitute as an original bill for the purpose of amendment.

□ 1400

The rule also provides that the Committee on Resources amendment in the nature of a substitute shall be considered as read.

Mr. Speaker, this rule continues the approach of according priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. It is not a requirement, but I believe it will facilitate consideration of amendments.

Finally, House Resolution 142 provides for one motion to recommit with or without instructions, as is the right of the minority Members of the House.

Mr. Speaker, this is a standard open rule and the Rules Committee has ensured that all Members who wish to modify the bill through the amendment process have every opportunity to offer their amendments.

The legislation that this rule brings to the floor will amend the Endangered Species Act of 1973 to improve the ability of individuals, local, State, and Federal agencies to comply with the act in building, operating, maintaining, or repairing flood control projects, facilities, or structures. In short, H.R. 478 will simply allow flood control experts the ability to repair and maintain existing man-made flood control structures in order to help protect American citizens and their homes, businesses, and farms from the destruction of rising flood waters.

Let me be very clear. We all support species protection, and the Endangered Species Act has been instrumental in the preservation of a number of threatened species since becoming law. However, in some cases the programs of the Endangered Species Act have had an effect which is opposite the intent, and they often have a detrimental impact on the affected communities. It is also compromising human lives.

This is one such case in which we should make a small modification

where human lives are at stake. Unfortunately, the rigidity of current law has placed obstacles in front of those who wish to repair and maintain flood control structures.

We heard testimony in the Committee on Rules of the opportunities to avoid flood tragedies that were lost because bureaucratic redtape delayed necessary levy repairs. Rather than taking the proactive endeavors that would repair levees, State and local officials were bogged down in studies and mitigation requirements that have resulted in levee failures, significant economic damage, and the loss of human life.

It is my hope that this modification in the Endangered Species Act will save lives, safeguard property, protect species whose habitats are near flood control structures, and significantly reduce the demand for massive annual appropriations for emergency relief.

H.R. 478 was favorably reported out of the Committee on Resources by the vote of 23 to 9, and the open rule was unanimously approved by the Committee on Rules. I urge my colleagues to support the rule so that we may proceed with general debate and consideration of the merits of this very important bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Georgia for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this open rule and urge my colleagues to support it so that all our alternatives and potential improvements to this legislation may be considered.

The bill made in order by the rule, however, concerns me a great deal. Even the name of the bill, "the Flood Prevention and Family Protection Act" is misleading. This legislation will neither prevent floods nor will it protect families from floodwater. Instead, it takes political advantage of the recent tragedies associated with flooding in various States and uses them to attack one of our Nation's landmark environmental laws, the Endangered Species Act.

This bill is overbroad, and would open a gaping hole in the Endangered Species Act. It would permanently exempt the reconstruction, operation, maintenance, and repair of all dams, hydroelectric facilities, levees, canals, and other water-related projects from the safeguards and protections of the Endangered Species Act, whether these projects are Federal or non-Federal. There are literally thousands of dams and other structures nationwide that have flood control as a purpose. Under this ill-advised legislation, almost all water-related projects, from repairing levees to operating massive hydroelectric facilities, would be exempt

from the Endangered Species Act, meaning that no consultation whatsoever would be required regarding those projects' potential effects on endangered species or their habitats.

Moreover, the bill is unnecessary. The Endangered Species Act is already flexible enough to allow expedited review for improvements or upgrading to existing structures in impending emergencies. And, most important, the act already allows exemptions for the replacement and repair of public facilities in Presidentially declared disaster areas. And the Fish and Wildlife Service has already issued a policy statement clarifying that flood-fighting and levee repairs are automatically exempted from the Endangered Species Act if they are needed to save lives and property.

However, it is important for us to point out that the Endangered Species Act did not cause floods. I believe that is an act of nature.

If there are burdens that are imposed by the Endangered Species Act on landowners, we should look for ways to reduce the burdens without compromising the protection of our vanishing wildlife. But legislation that reduces those burdens by eliminating the protection of endangered species is not reform; it is repeal.

I had hoped that after last year's disastrous attempts to gut our Nation's landmark environmental laws, that bills like H.R. 478 would be put to rest, but I was wrong. Now it appears that the American people will witness a more insidious repeat of the 104th Congress, one in which back-door attempts to chip away at environmental protections are brought to the floor under the guise of protecting families.

Mr. Speaker, while I do not oppose this open rule, I strongly urge my colleagues to defeat the bill that it makes in order.

Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I have no disagreement with the rule, but I do strongly disagree with the direction that this bill takes in terms of its representations and action fundamentally undercutting seriously the Endangered Species Act, an act which should be reauthorized and dealt with on its merits as opposed to these single shots and, I might say, a broad attempt here today to suspend the application of the Endangered Species Act to a wide range of regular activities dealing with the repair, the reconstruction, the maintenance, and even the operation of various water projects.

Mr. Speaker, we are aware that when water projects are put forth and justified, they are justified on the basis of a series of different criteria and purposes. One of those purposes is flood

protection, another might be for navigation, it may be for power production and certainly for recreation and the enhancement of the natural features, the wildlife and other flora and fauna that might be present in the project areas.

What we see here is that in the reconstruction, in this whole series of operation and other activities, that this would be completely suspended. We would not look at one of the significant factors that are involved in such project. Under the Endangered Species Act, there have literally been 25 to 40,000 consultations. This suspends any consultation with the Fish and Wildlife Service as to the aspects of that impacting the flora and fauna that may be endangered, may be threatened, or may be candidate species, we would not have a consultation with them, we would not have conferencing, and, finally, we would suspend the provision if they in fact do damage, what we call takings within the Endangered Species Act, would also be null and void.

Doing this under the auspices of somehow protecting safety and health and life, in fact I think that the supposition that somehow that the Endangered Species Act is responsible for the flooding and the loss of life in California has not been demonstrated. In the hearings on this matter, there was evidence that they had an 11-year project and that this segment was the last phase of the project that was not rehabbed and constructed for a whole variety of reasons, some of which were financing and other activities. There was a determination on how they would proceed with this. It is true that it does take time to discuss and to talk about the impacts of replacing or building flood control projects, but it hardly was the basis in which a natural phenomenon, a hydrological event in terms of rainfall, a hydrological-meteorological event, I might say, that heavy rainfall and snow melt which occurred and caused that particular catastrophic event. We have seen this happen over and over again recently by the House in recent years. Very often in fact if the environmental rules were followed with regard to how we treat watersheds and wetlands, we would see a lot less of this flooding and a lot more capacity of an area to absorb that type of a natural event that occurs. The effort to use the endangered species as the scapegoat and responsible for this problem is wrong. This measure being proposed is not just for emergency situations. This would be a permanent exemption by amending the Endangered Species Act, as I said, for a broad range of activities, for dredging, as an example, and that occurs in the Mississippi water basin, it occurs in Florida, all of those activities. The endangered species would be exempt in those instances, there would be no consultation, there would be no protection of the endangered or threatened species or candidate species in those instances.

Mr. Speaker, we will have an opportunity during the debate to vote for the Boehlert-Fazio amendment which will provide a temporary exemption which will sunset when the emergency is gone, which will deal with the aftermath, the floods, and other types of damage that may be done to water projects so that we are not under the necessity to have the rules and regulations when there is a legitimate emergency or crisis situation, we can deal with it. This bill, of course, in its current form, the administration has reported that they are going to veto it. All of the major environmental groups across this country are opposed to it.

Mr. Speaker, this harkens back to the last Congress when repeatedly we were on this floor with a multitude of environmental bills that attempted to repeal the bipartisan heritage of environmental policy that has been developed in the last 30 years. This is the first opportunity that Members have had to stand up and to say no to that type of head-in-the-sand operation with regard to environmental legislation. I hope Congress will say no today on the major bill and vote for the Fazio-Boehlert amendment which will be offered to make this a reasonable targeted attempt at policy with a sunset.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. ROGERS). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 415, nays 8, not voting 10, as follows:

[Roll No. 107]

YEAS—415

Abercrombie  
Ackerman  
Aderholt  
Allen  
Archer  
Armey  
Bachus  
Baesler  
Baker  
Baldacci  
Ballenger  
Barcia  
Barr  
Barrett (NE)  
Barrett (WI)  
Bartlett

Barton  
Bass  
Bateman  
Bentsen  
Bereuter  
Berman  
Berry  
Bilbray  
Billakis  
Bishop  
Blagojevich  
Bliley  
Blumenauer  
Boehlert  
Boehner  
Bonilla

Bonior  
Bono  
Borski  
Boswell  
Boucher  
Boyd  
Brady  
Brown (CA)  
Brown (FL)  
Brown (OH)  
Bryant  
Bunning  
Burton  
Buyer  
Callahan  
Calvert

Camp  
Campbell  
Canady  
Cannon  
Capps  
Cardin  
Carson  
Castle  
Chabot  
Chambliss  
Chenoweth  
Christensen  
Clayton  
Clement  
Clyburn  
Coble  
Coburn  
Collins  
Combest  
Condit  
Conyers  
Cook  
Cooksey  
Costello  
Coyne  
Cramer  
Crane  
Crapo  
Cubin  
Cummings  
Cunningham  
Danner  
Davis (FL)  
Davis (IL)  
Davis (VA)  
Deal  
DeGette  
DeLauro  
DeLay  
Dellums  
Deutsch  
Diaz-Balart  
Dickey  
Dicks  
Dingell  
Dixon  
Doggett  
Dooley  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Edwards  
Ehlers  
Ehrlich  
Emerson  
Engel  
English  
Ensign  
Eshoo  
Etheridge  
Evans  
Everett  
Ewing  
Farr  
Fattah  
Fawell  
Fazio  
Flake  
Foglietta  
Foley  
Forbes  
Ford  
Fowler  
Fox  
Frank (MA)  
Franks (NJ)  
Frelinghuysen  
Frost  
Gallely  
Ganske  
Gekas  
Gephardt  
Gibbons  
Gilchrest  
Gillmor  
Gilman  
Gonzalez  
Goode  
Goodlatte  
Goodling  
Gordon  
Goss  
Graham

Granger  
Green  
Greenwood  
Gutierrez  
Gutknecht  
Hall (OH)  
Hall (TX)  
Hamilton  
Hansen  
Harman  
Hastert  
Hastings (FL)  
Hastings (WA)  
Hayworth  
Hefley  
Hefner  
Herger  
Hill  
Hilleary  
Hilliard  
Hinojosa  
Hobson  
Hoekstra  
Holden  
Hooley  
Horn  
Hostettler  
Houghton  
Hoyer  
Hulshof  
Hunter  
Hutchinson  
Hyde  
Inglis  
Istook  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jefferson  
Jenkins  
John  
Johnson (CT)  
Johnson (WI)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Kanjorski  
Kaptur  
Kasich  
Kelly  
Kennedy (MA)  
Kennelly  
Kildee  
Kilpatrick  
Kim  
Kind (WI)  
King (NY)  
Kingston  
Kleczka  
Klink  
Klug  
Knollenberg  
Kolbe  
Kucinich  
LaFalce  
LaHood  
Lampson  
Lantos  
Largent  
Latham  
LaTourette  
Lazio  
Leach  
Levin  
Lewis (CA)  
Lewis (GA)  
Lewis (KY)  
Linder  
Lipinski  
Livingston  
LoBlundo  
Lofgren  
Lowe  
Lucas  
Luther  
Maloney (CT)  
Maloney (NY)  
Manton  
Manzullo  
Markey  
Martinez  
Mascara  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCollum

McCrery  
McDade  
McDermott  
McGovern  
McHale  
McHugh  
McInnis  
McIntosh  
McIntyre  
McKeon  
McKinney  
Meehan  
Meek  
Menendez  
Metcalfe  
Mica  
Millender  
McDonald  
Miller (CA)  
Miller (FL)  
Minge  
Mink  
Moakley  
Molinaro  
Mollohan  
Moran (KS)  
Moran (VA)  
Morella  
Murtha  
Myrick  
Nadler  
Neal  
Nethercutt  
Neumann  
Ney  
Northup  
Norwood  
Nussle  
Oberstar  
Obey  
Oliver  
Ortiz  
Owens  
Oxley  
Packard  
Pallone  
Pappas  
Parker  
Pascarella  
Pastor  
Paul  
Paxon  
Payne  
Pease  
Pelosi  
Peterson (MN)  
Peterson (PA)  
Petri  
Pickering  
Pickett  
Pitts  
Pombo  
Pomeroy  
Porter  
Portman  
Poshards  
Price (NC)  
Pryce (OH)  
Quinn  
Radanovich  
Rahall  
Ramstad  
Rangel  
Regula  
Riggs  
Riley  
Rivers  
Rodriguez  
Roemer  
Rogan  
Rogers  
Rohrabacher  
Ros-Lehtinen  
Rothman  
Roukema  
Roybal-Allard  
Royce  
Rush  
Ryun  
Sabo  
Salmon  
Sanchez  
Sanders  
Sandlin  
Sanford  
Sawyer

Saxton	Snyder	Traficant
Scarborough	Solomon	Turner
Schaefer, Dan	Souder	Upton
Schaffer, Bob	Spence	Velázquez
Schumer	Spratt	Visclosky
Scott	Stark	Walsh
Sensenbrenner	Stearns	Wamp
Serrano	Stenholm	Waters
Sessions	Stokes	Watkins
Shadegg	Strickland	Watt (NC)
Shaw	Stump	Watts (OK)
Shays	Stupak	Waxman
Sherman	Sununu	Weldon (FL)
Shimkus	Talent	Weldon (PA)
Shuster	Tanner	Weller
Sisisky	Tauscher	Wexler
Skaggs	Tauzin	Weygand
Skeen	Taylor (MS)	White
Skelton	Thomas	Whitfield
Slaughter	Thompson	Wicker
Smith (MI)	Thornberry	Wise
Smith (NJ)	Thune	Wolf
Smith (OR)	Thurman	Woolsey
Smith (TX)	Tiahrt	Wynn
Smith, Adam	Tierney	Yates
Smith, Linda	Torres	Young (AK)
Snowbarger	Towns	Young (FL)

## NAYS—8

DeFazio	Hinchey	Stabenow
Filner	Kennedy (RI)	Vento
Furse	McNulty	

## NOT VOTING—10

Andrews	Clay	Schiff
Becerra	Cox	Taylor (NC)
Blunt	Gejdenson	
Burr	Reyes	

## □ 1434

Mr. McNULTY changed his vote from "yea" to "nay."

Mr. MARTINEZ changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to House Resolution 142 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 478.

## □ 1437

## IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 478) to amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal agencies to comply with that act in building, operating, maintaining, or repairing flood control projects, facilities, or structures, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. POMBO] and the gentleman from California [Mr. MILLER] will each control 30 minutes.

The Chair recognizes the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at this time I would like to point out to the Members that we are beginning debate on what is a very important bill. It is very important to my district, it is very important to the Central Valley of California, but it is also very important to the Nation as a whole.

We are undertaking an effort to put some common sense into the maintenance, management of our flood control system. It is not a broad-based bill; it does not go after all of the problems that we would like to fix with the Endangered Species Act, but it does go after one specific problem that we have had, and that problem is that the routine maintenance of our levee system has not been allowed to continue, has not been allowed to happen on a timely basis because of the implementation of this act the way that it is being implemented in California today.

Mr. Chairman, I yield 4 minutes to the gentleman from Alaska [Mr. YOUNG], chairman of the full committee.

Mr. YOUNG of Alaska. Mr. Chairman, the bill before us is H.R. 478, the Flood Prevention and Family Protection Act of 1997.

The Committee on Resources reported the bill to the House on April 10 by 29 votes, including 6 Democratic votes.

As my colleagues know, in the last Congress I made the reauthorization and reform of the Endangered Species Act a top priority of my committee. I am one of the few Members, in fact probably the second Member of this whole body, who voted for the Endangered Species Act in 1973.

I have supported the goals of the Endangered Species Act throughout my 25 years in Congress. However, as an early supporter I can tell my colleagues that today, 24 years later, I am sorely disappointed in the way that this law, with its good goal, has been abused by environmentalists, both in and out of our Government, who use this law not to protect wildlife and endangered species, but to control the use of lands. I believe the professional environmentalists have taken an extreme position on this bill, favoring beetles and their habitat over the protection of human life, property, and environment.

May I stress that in California, the big flood break that started there is because we were trying to mitigate where the Corps of Engineers said it had to be fixed, an area that had beetle habitat. And after 6 years they finally said: Yes, you can repair. After \$10 million, we can repair the levee next summer. Guess what? The levee broke, as the Corps said it would break. Right here, right here is the statement, 6 years later the levee did break. We lost three lives and millions of dollars of damage done to private property and the agricultural base of California. Guess what? We even lost the elderberry

bush. So what did we accomplish? Nothing.

Now, I am going to suggest to my colleagues that H.R. 478 by the gentleman from California [Mr. POMBO] and the gentleman from California [Mr. HERGER] is a solution to a problem. All it does is give us the authority to in fact maintain levees, maintain levees. My colleagues will hear later on today about an amendment that says great things but does nothing. In fact, it makes it worse than it is right now.

So I am asking all of my colleagues in this room to keep in mind my position. First, the process, the committee process, and second, do we truly cherish human life, do we cherish the property, and should we put up roadblocks under an agency with a law that cherishes beetles over human life? We lost the elderberry bush, we lost lives, in fact, we lost great amounts of tax dollars.

The amendment later on to be offered by the gentleman from New York [Mr. BOEHLERT] says yes, we can repair the levee after the break or we can repair the levee or work on it if it is in imminent danger right now. No one defines who spells that out. Nor in fact will it give us an opportunity to maintain a levee prior to.

I come from an area in California, originally born there, and I went through four floods. I am going to suggest respectfully, for those that say that this bill is gutting the Endangered Species Act, I ask my colleagues, did they vote for the Endangered Species Act? No. The gentleman from California [Mr. MILLER] did not vote for it; the gentleman from California [Mr. FARR] did not vote for it; the gentleman from New York [Mr. BOEHLERT] did not vote for it. I did.

I went through the hearing process. I knew what was intended. What we are trying to do is fix a small part of the Endangered Species Act and make it more logical and it can be applied to the protection of human life and property that must be protected. That is our responsibility.

Mr. Chairman, I urge a "no" vote on the amendment offered by the gentleman from New York [Mr. BOEHLERT] and very frankly a big "yes" vote on H.R. 478.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

(Mr. BOEHLERT asked and was given permission to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Chairman, I rise in strong opposition to this bill which would gut the Endangered Species Act. Make no mistake about it. The bill would, and I quote, exempt any maintenance, rehabilitation, repair, or replacement of a Federal or non-Federal flood control project, facility or structure, and it goes on and on.

□ 1445

H.R. 478 bears no resemblance to the benign, narrow bill its sponsors describe. H.R. 478 is advertised as a targeted response to an emergency situation. Yet, this bill would exempt from the Endangered Species Act any work at any existing flood control facility, even if there was no conceivable threat to public safety. Is a blanket exemption to the Endangered Species Act necessary to respond to or to prevent emergency? Obviously not.

H.R. 478 is advertised as a way to provide relief to communities that have suffered or will suffer from disasters. Yet, this bill is so broad that it would never be signed into law. Can a bill that never becomes law help a single person? Obviously not.

H.R. 478 is advertised as being pro-environment. Yet, this bill is vehemently opposed not only by every environmental group, but by such sportsmen's group as Trout, Unlimited, and by conservative wildlife management groups such as the International Association of Fish and Wildlife Associations. Would a pro-environment bill be opposed by the entire environmental community? Obviously not.

H.R. 478 is advertised as striking a balance between human needs and the preservation of wildlife, yet this bill would prevent any wildlife consideration from being taken into account in managing such areas as the Everglades or the Columbia River Basin, or the Colorado River. Can a bill simultaneously do away with wildlife considerations and provide any protection for endangered species? Obviously not.

The deficiencies in this bill are, indeed, glaringly obvious. We cannot ignore them simply because this bill is being proposed in the wake of tragic floods. This bill has little to do with responding to floods and everything to do with using them as political cover.

However, we must not be distracted by shouting "flood" in a crowded congressional Chamber. Does this mean that the Endangered Species Act does not need to be reformed? No. But today's debate is about emergency measures, not about comprehensive reform. Does this mean that Congress does not mean to make any changes to the Endangered Species Act in response to floods? No. But we respond with moderate, targeted, sensible solutions to real problems.

Mr. Chairman, we have to respond with moderate, targeted, sensible solutions to real problems, solutions that can get signed into law. I will offer a substitute that fits that description, a measure that will work as advertised.

Mr. Chairman, I urge my colleagues to read H.R. 478 to understand its expansive impact. We must not allow legitimate concerns about flooding to wash away 25 years of effort to preserve endangered species. We have better ways to protect human lives and

property, the goal we all share. I ask my colleagues to oppose H.R. 478 and to support the Boehlert substitute.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, I come to the well as an expert in what can happen when levees are not sufficient to withstand raging flood waters. Three weeks ago the city of Grand Forks went under. We have a city of 50,000, the second largest city in my State, which sustained hundreds of millions of dollars of damage. In fact, the Federal Reserve Board of St. Paul has estimated that the damage in Grand Forks and through the Red River Valley, the property damage alone is \$1.2 to \$1.8 billion.

Mr. Chairman, I believe an ESA exemption sufficient to address levee repair, where necessary to protect human life or prevent substantial property damage, only makes very basic sense. This body must evaluate and weigh conflicting priorities on critical issues like the one before us. Clearly we have to come down on the side of protecting human life. We have to come down on the side of preventing major property damage. We have to protect levees. Let us pass this bill, as amended by the gentleman from California [Mr. CAMPBELL].

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we are here as lawmakers. I will not disagree with anything that has been said by the previous speakers, but I think they have failed to read the law that they are asking the Members to adopt. That law as it comes to the floor says that consultation conferencing is not required for any agency for the reconstruction, the operation, the maintaining or repairing of Federal or non-Federal flood control projects, facilities, or structures. Then it lists the reasons why. But it also says it will also apply when it consists of maintenance, and including operation of a facility in accordance with previously issued Federal license, permit, or other authorized law.

What this says is that you no longer have to consult or confer with people when you are going to build a dam, when you are going to operate a dam, when you are going to build any kind of structure. Why is this consultation important? It does not say just in floods. It says any time, any time. It could be just clear, beautiful, sunny weather; ignore the endangered species, ignore the species, because endangered species goes into looking at all species.

I happen to represent a lot of fishermen. Their fish depend on water quality and water flows. What this is saying is that the farming interests here

or the interests of those who maintain levees should supersede the rights of those who benefit from the water.

That is not what this Congress wants to do. The problem with this bill is not the intent, because I think the intent is supportable. The problem with this bill is the way it has been drafted and comes to the floor. It makes a hole so wide that nobody in their right mind would want to have these broad exemptions.

Mr. Chairman, I have been through those floods that the gentleman from Alaska [Mr. YOUNG] talked about. I am a fifth generation Californian. I was through the floods of 1986 in the Sacramento Valley, and nobody raised this issue. There was as much water in 1986 as there was this year.

I was through the floods in 1995, in the Salinas Valley. Do you know what? People said the river was not dredged because of the Endangered Species Act, but then they went back to the record and could find no proof there was ever any issue there with the Fish and Wildlife Service of any endangered species.

The water has something to do with floods. I do not think we ought to blame it all on the species, and some of those species we use for commercial purposes, particularly the fishermen. I stand in opposition to this bill, in support of a strong commercial fishery industry, in support of a balanced approach to problem-solving.

If Members remove this, I will tell them what is going to happen. People are going to enter the opposition through lawsuits. The consultation process is to avoid lawsuits. It is to essentially mitigate disputes before they happen. If we want to exempt that in emergency purposes, then do it for emergency purposes, not just for all time, forever.

Therefore, the bill in its present state is just too broad. It needs to be amended. It needs at this time to be defeated.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. SMITH], chairman of the Committee on Agriculture.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, now I remember why I retired 2 years ago. It has to do with the exaggeration of this place, and at times, the exaggeration of the issues. It seems to me reasonable people ought to come to reasonable concerns about the past, at least, and learn from them.

In 1996 there was devastation in California with floods, and the Corps of Engineers and others said, come forward here, look at what we must do. We must repair and maintain these canals, or we are going to lose people, lives, and property. That did not occur for many of the reasons that we have heard from the gentleman from California [Mr. POMBO] and others.

What happened? We had the devastation of another flood. We will have another one in the future. So I suggest to all of us here, we ought to take a look at the past and learn from it, allow us to maintain these canals. Why do we not think about human life, as well as we think of snakes and beatles, especially if we have somebody telling us we have human life at stake here. Hey, who are we protecting in this body, anyway, if we have the choice? We are going to protect more endangered species by this bill than we do without it. Why? What happens when we have a tragic flood? It is like what happens when you have a tragic fire. It burns everything, floods destroy everything. How many endangered species do Members think were lost in this flood of 1996? I recommend much more, many, many more than we would have protected had they given us this bill.

This bill saves lives, it saves endangered species, and it saves property. I thought that is what we were all about.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I rise today in strong support of the Fazio-Boehlert amendment. I supported this amendment in the Committee on Appropriations, and I think this is a real commonsense amendment. Basically, what it says is that any activity that is needed for the repair of flood control projects is exempted from the consultation process of ESA. But this amendment goes far beyond that. It says we are going to exempt any project anywhere in the country that is involved in flood control. That is an overreach. It is not what we should be doing here today.

Mr. Chairman, I happen to believe, I am a strong believer in the Endangered Species Act, even though up in my State we have had terrible problems with the marbled murrelet, the northern spotted owl, and salmon. But what we have done is worked with the Fish and Wildlife Service. We have had consultation, and we were able to work out solutions that protect the environment, that protect species. The Fish and Wildlife Service has already, in California, exempted the work that has to be done to fix the levees and do the repairs. Mr. Chairman, the underlying bill, frankly, is unnecessary.

Second, what in essence we are doing here today with the Boehlert-Fazio amendment is putting into statute what the Fish and Wildlife Service has already done, and which this administration strongly supports. That is going out there and doing the fixes that are necessary to help the people that are hurt.

This amendment goes beyond that and says any flood control project in the entire country is exempted from the Endangered Species Act. I am ashamed of the other side who presents

this, because they tried this same thing last year and they were defeated when many Republicans, Republicans who would support the Endangered Species Act, deserted and stood with those of us in the House who believe we should have some concern about species.

We are a specie. The health of the ecosystem is important not only to the species, but also to the humans. In our long-term best interest, I think we are in better shape when we work with the agencies and come up with rational solutions. So let us not overreach, let us not try to use the floods in California to gut the ESA, let us legislate today carefully and competently. Let us accept the Fazio-Boehlert amendment, which gets to the heart of what needs to be done, without overreaching.

Mr. POMBO. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. HERGER], the author of the bill.

□ 1500

Mr. HERGER. Mr. Chairman, today I wish to speak on behalf of my legislation, H.R. 478, the Flood Prevention and Family Protection Act of 1997. This legislation addresses a critical need that can be found in virtually every district in the United States. Not one area of this country does not possess some structure created for the sole purpose of flood control.

Levees and other flood control structures work well to preserve human life and animal habitat when they are properly designed, constructed, maintained, and repaired. If left unrepaired or improperly maintained, these structures have the potential of failing during flood events and imperiling human life and the environment.

This year alone, floods have devastated areas across the United States. Rising waters have taken lives and destroyed property in California, Nevada, Oregon, Washington, North Dakota, Minnesota, and the entire Ohio River Valley. Controlling these floods is a national responsibility that requires a national solution.

It amends the Endangered Species Act to allow flood experts to repair and maintain existing man-made flood control structures. The ESA was never intended to compromise human life, yet that is exactly what happens each time a levee or other needed flood control project is postponed or delayed due to extensive and costly regulations mandated by the ESA.

Since 1986, after devastating floods weakened levees along the Feather River in my northern California district, flood control officials near the community of Arboga, CA, attempted to repair and reconstruct their failing levee system. In 1990, a U.S. Army Corps of Engineers report determined repairs should occur on the Arboga levee as expeditiously as possible, stat-

ing, "Loss of life is expected under existing conditions, without remedial repairs, for major flood events."

Despite this acknowledgment, more than 6 years of mitigation passed before permission was finally granted to begin repairs in the summer of 1997. Unfortunately, it was too late for the residents of Arboga. Levee officials were required to spend 6 years, and on January 2, at 12:20 a.m., the levee broke in the very location predicted 7 years earlier.

We have a photo of that. As you can see by this photo, a levee failure is a traumatic event. Homes are lost, property is destroyed, and critical habitat is irreparably damaged. More importantly, human lives are put in jeopardy and often lost.

The levee break at Arboga took the lives of three people. The first was 75-year-old Claire Royal, a retired elementary school teacher who had taught school for 20 years at Far West Elementary School and Beal Air Force Base.

The second was 55-year-old grandmother Marian Anderson. Marian was also the wife of levee manager Gene Anderson, who, ironically, was out inspecting other portions of the levee when his wife was drowned.

The third person that drowned that night was World War II veteran Bill Nakagawa. Bill had served in World War II with the famed and distinguished Japanese-American 442d Combat Team of the U.S. Army in the European Theater. He was found in his home one-quarter mile away from the broken Arboga levee.

Thirty-two thousand other people were driven from their homes, 25,000 square miles of property and critical habitat were flooded, and more than 600 head of livestock, cows and horses, were drowned.

If H.R. 478 had been in place, this tragedy could have been avoided. Repairs would have been allowed to begin back in 1990 when the critical nature of the levee's condition was first noticed. Instead of proceeding directly with construction, however, officials were required to spend 6 years and more than \$10 million on studies and delaying mitigation that was eventually washed away in the January 2 floods.

This example occurred in my district in northern California, but the same thing could happen virtually in every other district across the United States. All it takes is a flood control structure and a listed species. Necessary and require repairs and maintenance will be delayed.

I urge Members' support of this legislation.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I thank the gentleman from California for yielding me the time.

Mr. Chairman, I think all of the Members in the Chamber to one extent or another believe in the provisions of the Endangered Species Act. Whether you think that it is exactly right or whether you think it is mostly right, most of us do agree that there is a need to protect certain species that are either threatened or endangered.

The problem with the bill of the gentleman from California [Mr. HERGER] is that those projects which it exempts tend to be where many endangered species live. That creates a very difficult situation for those of us who would like to maintain a balance in the endangered species area, simply because the exempted projects and the exempted parcels of land are the home for many of these species. So that makes it very difficult.

I know my good friend, the gentleman from California [Mr. CAMPBELL], has some language which he will offer later in the form of an amendment which moves toward changing the situation somewhat. He adds the language that says that the exemption will be in effect where necessary to protect human life and to prevent the substantial risk of serious property damage.

I wish I could support the Campbell amendment. However, by the very nature of the location of flood control projects, they are built to protect from the risk of substantial damage to property, life, and limb. And so I would suggest to my friend, the gentleman from California [Mr. CAMPBELL], that his language simply maintains the status quo as contained in the Herger bill and does not really have the effect that I know he intends it to have.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, my amendment would apply to the broadest part of the Herger-Pombo bill. What it would do is to take it from, I think, a very broad and too broad expansion down to the specific case, "where necessary to protect human life or to prevent the substantial risk of serious property damage." In that sense I believe it is really quite limiting. I confess, although it might have been because I did not hear all of the gentleman, though I tried, that I do not understand his point, in what sense my amendment was inadequate.

Mr. SAXTON. I contend, Mr. Chairman, that flood control projects are built only where there is a risk of significant loss of property, life, or limb. Therefore, the gentleman, by exempting only those projects which fall under that category, by nature of the definition exempts all of the projects that the gentleman from California [Mr. POMBO] exempts in his original bill.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I represent the State of Louisiana, which drains about 43 States. The district I represent sees the water coming through every year. Every year the water in the Mississippi River alone rises above the level of the inhabitants of the city of New Orleans by about 17 feet, 17 feet below sea level. In the case of a hard flood, hurricane conditions, we are told we could expect 27 feet of water in New Orleans if we do not protect our levees.

The choice you will face today will be a choice between making sure that the very precious funds available for the reconstruction, maintenance, and repair of existing levees and facilities designed to protect human lives, that those precious funds are in fact spent to do that. Or the choice will be to adopt the California solution.

This is the California problem. This is the set of regulations that levee maintenance people have to undergo in California in order to repair a levee. Testimony after testimony was heard at our committee of levee managers, both those who represent the State and local levee boards and those on Federal projects, who tell us that time and time again the precious dollars available to repair those levees had to be spent on mitigation projects demanded by the Fish and Wildlife Service and the Interior Department, projects that took those precious dollars away and, more important, took the time away from those necessary repairs. The gentleman from California [Mr. HERGER] read us the results: human lives lost, massive flooding.

Let me put it as clearly as I can to my colleagues. We will have a choice between an amendment that seeks to give America the California problem, the Boehlert amendment will simply codify this Federal solution in California and give it to Louisiana and the rest of the Nation, or a choice to say very simply that endangered species, yes, ought to be protected but not with levee board funds, not with funds designed to repair and rebuild and fit levees to protect human lives.

Whether we are for protecting animals and plants and the endangered species or not, and I think we all are, we ought to be for the proposition that when precious dollars and time is available to save precious human lives, that it ought not be spent on other worthwhile things. That money ought to go to build levees and repair them and keep people safe. If we vote today to put this California problem in place for the rest of America, we will be condemning citizens of this country to death and property to destruction all over this country.

We in Louisiana depend upon levees. Every Member of our delegation, Dem-

ocrat and Republican, has signed onto the Pombo bill. Every member of our delegation, Democrat and Republican, urban and rural, understands how critical maintenance of levee construction projects, maintenance of levee facilities are to the health and safety of our communities.

The city of New Orleans today is protected by something called a Bonne Carre spillway. It is a set of gates that open up water from the Mississippi River and spills it out into Lake Pontchartrain. Do we like doing that to the lake? No. We do it to keep the water levels down because in New Orleans today, if you go to our fair city, you will see ships plying the Mississippi above the level that people live. We need to pass the Pombo bill, defeat the Boehlert amendment.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. BLUMENAUER].

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy. I do agree with my colleague the gentleman from Oregon [Mr. SMITH], that we ought to learn from the past. But I am afraid that debate here today is largely beside the point.

First and foremost, the bill today addresses something that simply is not a problem. The information I have received from my State, and we know something about flooding; if it is not wet, if we are not under water, we are wet in Oregon. We have had lots of flooding. But we have had our experience that the opportunities under the ESA right now, the emergency consultation, do provide adequate provisions in dealing with problems. To the extent that we think that it needs clarification, the amendment offered by the gentleman from New York [Mr. BOEHLERT] and the gentleman from California [Mr. FAZIO] here will address that.

But I think the arguments that we are hearing today are reinforcing a tragic notion that somehow we are going to engineer our way out of the flooding. We have spent billions of dollars treating our water systems as machines and there is the notion, the false notion, that somehow by passing more levee construction, more money, that we are going to stop it. The fact is there are only three things that we should do to try and learn from the past, that will make a difference.

First and foremost, we should stop having people build in harm's way and help move people who are there out, rather than spending money time and time again to rebuild where God does not want them.

Second, we have to stop relying on building new dams and levees which simply make the problem worse, move the problem downstream. Why has the State of California had three floods of the century over the last 111 years? It is not getting better after \$38 billion.

And, last but not least, when we have paved 53 percent of the wetlands in the lower 48 States, you do not have any place for this water to go. It still comes down and we have floods. For heaven's sake, people who have simplistic ideas that we can go ahead and continue to pave our wetlands are sadly mistaken. Without changes in our thinking, we are going to continue to be wasting lives and money and coming back year after year with these sad, sad presentations.

I urge adoption of the amendment offered by the gentlemen from New York and California.

□ 1515

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY of California. Mr. Chairman, I rise in support of the Pombo-Herger legislation and in opposition to the Fazio-Boehlert amendment.

I believe very strongly that we have an opportunity to make a responsible modification to our Endangered Species Act to ensure that we can establish that balance in terms of how do we protect the health and safety of people and the economic livelihood of many of our communities, at the same time not unduly endangering many endangered species.

A lot of people have to keep in mind that a lot of these flood control projects and levies were established, they had to go through a NEPA process, had to be developed in accordance with the Endangered Species Act, had to provide mitigation at that time. And now all too often we are finding for them to do the ongoing maintenance of these projects is that Fish and Wildlife, unfortunately, is asking them for additional mitigation just to maintain the projects that were built according to the NEPA and according to our environmental laws. What we are asking here is just, I think, a responsible step forward.

I would also point out that I think this is actually going to result in environmental enhancement, because if we have a flood control district and a levy district that knows that they can maintain their levies, that they will not be threatened if they allow for habitat to be established, they do not have that incentive to go out and sterilize these.

I think the Pombo-Herger legislation is a responsible step forward, and I urge its passage.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Chairman, I rise today in opposition to H.R. 478, a bill which would gut the Endangered Species Act and which would be disastrous to imperiled species and ecosystems.

It is inconceivable to me how blame has been placed so readily and so cal-

lously on the Endangered Species Act for causing and aggravating the recent flooding in California. This is simply not the case. Rather, a shortage of funds, design flaws, and water management practices all contributed to this flood damage.

This bill exempts the reconstruction, operation, maintenance, repair, rehabilitation or replacement of any flood control facility from the requirement to protect endangered species at any time. Any activity related to a flood control facility, such as dredging, would be exempted from these requirements.

It is here, however, that the legislation's true effect is revealed. The ESA exemption to flood control facilities is permanent. As a result, the exemption would not have to be examined within the wider context of the total ESA provisions.

Currently, protection for endangered species is distributed equally among all parties which impact that species. This bill would remove flood control activities from the responsibility and shift it to others. That is why I support the substitute amendment. I urge my colleagues to do so, and I urge them to oppose this inaptly named legislation.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I want to engage the gentleman in a colloquy to clarify the intent of the amendment to section 7(A)(5)(B) and sections 9(A)(3)(B), which allows maintenance, rehabilitation, repair, or replacement of a Federal or non-Federal flood control facility, including operation of the facility in accordance with a previously issued Federal license, permit or other authorization.

Would it be the gentleman's understanding that these types of facilities are operating under authorizations which were granted after passing environmental reviews necessary at the time of the project, facility or the structure was built?

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, I would say to the gentleman that, yes, that is my understanding.

Mr. LEWIS of California. With regard to that same language, is it the gentleman's intent that when these licenses or permits expire these types of facilities will be fully subject to the provisions of the Endangered Species Act just as any other similar facility seeking a license, permit or authorization?

Mr. POMBO. Yes, that is my intent.

Mr. LEWIS of California. With regard to the reconstruction, repair, operation and maintenance of flood control facilities, is it the gentleman's understanding that replacement work would not extend beyond the physical foot-

print of the original project, facility or structure?

Mr. POMBO. Yes, that is my intent.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman clarifying that.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, I thank my colleague for yielding me this time.

After the disastrous floods of this winter I came back to Congress not only intent on finding the funds in the supplemental appropriations bill to deal with the needs of the constituents that those of us in the Central Valley of California represent, but to deal with the Endangered Species Act so that we could put the system, the complex flood control system, back in place by next winter.

I took an approach which was consistent with the advice I was given from the chairman of the Committee on Appropriations, the gentleman from Louisiana [Mr. LIVINGSTON], and the chairman of the Subcommittee on Energy and Water Development, the gentleman from Pennsylvania [Mr. MCDADE], and that was to come up with an amendment that would not be controversial and in some way impede the passage of the supplemental appropriations bill.

We drafted language that dealt with the emergency up through the end of next calendar year and provided, in addition, for special procedures if imminent danger to life and property were to occur. That language was adopted unanimously by the Committee on Appropriations after some fine-tuning. It was expanded to cover the entire country at the request of the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Mississippi [Mr. PARKER].

I now find we are having a vote on a separate standing authorization bill, which I believe is really a vote on what language will ultimately be added to the appropriations supplemental when it finally comes to the floor, probably next week. There is no real hope of this separate bill going to the President.

The language that the gentleman from California [Mr. POMBO] is advocating has explicitly been opposed by the administration and a veto has been threatened. Just today, after a number of weeks of conversation, we were told they would accept the language that the Committee on Appropriations passed unanimously that the gentleman from New York and I bring forward today.

I want to deal with the art of the possible. I want to deal with the immediate problem that our constituents face, and that is to get the flood control system they have helped pay for over a long period of time—along with the Federal taxpayer—back to a point where they can feel protected.

I understand the need to thoroughly review the Endangered Species Act. I would like to see it brought to the floor in totality. I would like to see us work our will on changes that are required in it, not just single-shot changes like this one. I hope that can be accomplished in this Congress. But I do not want this very hot issue, where emotions are obviously boiling over, to impede the approach that I have taken, which will be signed as part of the supplemental, which will help the people that I represent just as the two gentlemen from California, Mr. POMBO and Mr. HERGER, and others do.

If this Boehlert amendment that has come from the Committee on Appropriations, which it passed unanimously, can pass this floor, it will be signed into law. But if the Pombo bill that is before us today is somehow to survive this process and go to the President as part of the supplemental appropriations effort it will bring down the entire bill; not a result that helps the people of California who have been victimized by this flooding. I, therefore, support the Boehlert substitute.

Mr. POMBO. Mr. Chairman, I yield 1 minute and 15 seconds to the gentleman from California [Mr. RADANOVICH].

Mr. RADANOVICH. Mr. Chairman, I rise to support of H.R. 478, the Flood Prevention and Family Protection Act of 1997.

Flood control is a necessity, not a luxury, and unfortunately opponents of the measure see the world much differently. A recent letter from the environmental lobby, which is opposed to this legislation, stated:

H.R. 478 would give dam-managing agencies \*\*\* carte blanche to destroy aquatic wildlife in the name of flood control.

Does anybody really believe this is what these local decisionmakers have in mind? This kind of extreme rhetoric is a symptom of the controversy surrounding the current environmental debate. If we are ever going to address today's environmental problems, we can no longer rely on yesterday's solutions.

The proponents of the status quo, I believe, are less concerned about protecting endangered species than they are in giving up Federal control of environmental decisionmaking to local authorities. How many species survived the recent levy washout in California? How much habitat was destroyed? How many people died?

The proponents of H.R. 478 are not opposed to species protection; they are simply opposed to policies that undermine our ability to protect people from the dangers of floods.

This bill makes a commonsense change in the Endangered Species Act to help prevent flooding before it occurs, not just in dealing with it after. I urge my colleagues to support H.R. 478.

Mr. MILLER of California. Mr. Chairman, I yield 4 minutes to the gen-

tleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me this time.

I would like to list a number of things here. Everyone here wants to save the lives of people, and everyone here wants to put people out of harm's way, and I would assume that everyone here wants to understand the natural mechanics of the flow of water and the mechanics of creation, how things work.

No. 1, this area in California is already exempted as a result of section 7 of the Endangered Species Act from consultation. This area declared a disaster is exempted from the Endangered Species Act.

No. 2, the amendment of the gentleman from New York, [Mr. BOEHLERT], goes a little bit further than already existing law to ensure that repairs are made at least by December 1998, and it can be extended beyond that.

I am going to amend the Boehlert substitute by ensuring that we have some sense of understanding as far as what maintenance means and the cost of mitigation.

Now, the present bill on the floor, whether it is the present bill or whether the present bill is amended by the gentleman from California, [Mr. CAMPBELL], exempts in a blanket manner the Corps of Engineers from ESA consideration in the following areas: Dams, reservoirs, erosion control, beach replenishment, levies, dikes, walls, diversion channels, channel operations, draining of agricultural lands, you name it, the list goes on and on and on.

Now, the issue here is an emergency. We are dealing with an emergency with the present law. With the Boehlert amendment we will ensure that what we see here will be repaired. But I want my colleagues to take a close look at what they see here. We see levies, we see when levies fail they cause great problems in the other picture.

The problem is, as far as I am concerned, and we are missing the mark in this debate, is that we are dealing with, at least, a 500-year-old engineering design. That design is called levies. Most of the levies in the area of California were built 100 years ago. In 1997, we have better engineering skills. Levies, by their very nature, increase the level of the water and increase the speed of the water. Levies exacerbate upstream and downstream flooding. Levies fail because they conflict rather than conform to the natural processes of the water.

A gentleman earlier, from Oregon, said that if we had more areas where the water could meander into, more wetlands, then we might have nuisance flooding every once in a while, but the problem is when we channel that water

and speed up that water and we raise the level of that water, not only do we have flooding, we have major flooding. And not only do we have major flooding with this faulty design of levies, we have human misery.

So, it is about time that we have some sense of understanding as to the construction of these levies. My fear is that if we pass the bill in its present form or even with the Campbell amendment, we will once again give people the false impression that levies will protect their lives and property, and that simply is not true.

Levies, by their very nature, the design of levies are going to fail, whether they have been maintained or whether they were some of the best levies and they met all the standards. I think if we look at the levies in this picture they look like they are pretty well maintained, the grass is cut, we do not see a lot of bushes. Whether this was the best maintained levy in that district of California or whether it was the worst maintained levy in that district of California, levies are designed to fail, and if we bring the people of this country some tranquil sense that we are going to protect them, this bill will not do it.

□ 1530

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. I thank the gentleman from California [Mr. POMBO] for yielding time.

The bill that was offered before us will be amended in a manner that has been described by a number of speakers. I would like to take a moment and say what my amendment does. It limits the Herger-Pombo bill to those existing projects, so it is not for all new projects as has been said; it has to be for existing projects only, that previously have received a Federal license, and then this qualification: "where necessary to protect human life or to prevent the substantial risk of serious property damage."

I do not know what sort of a project my colleague would like to delay where its purpose is to protect human life and to prevent substantial risk of serious property damage. That is a very narrowing amendment. It makes Herger-Pombo much more constrained to a real case of need. I just cannot see who would be opposed to letting a project go ahead where it fits those criteria, necessary to protect human life, or to prevent the substantial risk of serious property damage.

Finally, on the Boehlert amendment, which we will vote on in a bit, bear in mind that that amendment only applies to imminent threats. Oftentimes we know the river is going to rise, but it is not rising yet. For that reason we need Herger-Pombo as amended by my amendment.

Mr. MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, H.R. 478 is an extreme and environmentally dangerous bill that expands the waiver of the Endangered Species Act requirements to a broad range of non-emergency situations. This bill would allow for an ESA waiver for the daily routine maintenance and repair of any existing flood project anywhere in the Nation. This exemption would apply to all projects, Federal and non-Federal, at any time regardless of flood threat.

H.R. 478 would subject large tracts of land to environmental hazards and damage by denying them the protection of the ESA. The Boehlert-Fazio substitute is a bipartisan substitute that is in response to this excessive measure. The substitute allows for ESA exemptions to true emergencies including prospective emergencies. H.R. 478 proposes extreme sweeping changes to the ESA legislation, changes which I cannot endorse. The Boehlert-Fazio substitute allows us to address emergency repairs and gives us the opportunity to debate broader ESA issues at a later date. I am very much in support of the Boehlert-Fazio substitute for this reason.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. THORNBERRY].

Mr. THORNBERRY. Mr. Chairman, there are lots of Americans who work hard every day to make ends meet and spend their weekends with their kids or work in the yard who are searching for a little bit of common sense to come into government programs. I do not know if there is a clearer example of where a dose of common sense is needed than in this bill. There are levees that need to be fixed. Many of them will not be fixed without this bill, at least not fixed in time to stop the devastation. If they are not fixed, then not only are people's homes destroyed or lives lost, but the habitat is also destroyed of the animals and plants that we are trying to protect.

The base bill, I think, is the least that we can do that will make a difference in people's lives. If we wait under the Boehlert amendment until the water comes rolling down the canyon, it is too late at that point to do anything to save them. It makes sense to maintain the levees to prevent the flooding, to begin with, rather than wait until it gets into that situation and then try to run in and come to the rescue. This is a dose of common sense, and it is the least that we can do to save this badly flawed legislation.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I am from a State that was very hard hit by flooding this past winter. As a result, I am very concerned about anything

that might be responsible for costly damages my constituents had experienced. So I called Oregon's Governor's office. I asked him to find out whether the Endangered Species Act had in any way contributed to the flooding in Oregon. The answer was a resounding no.

Let me read from a letter from the director of Oregon's Emergency Management Department, quote:

As the director of the State's emergency management agency, I want to let you know that consideration of endangered species has not caused unreasonable delays in implementing flood recovery in Oregon.

She went on to say:

The ESA includes an emergency consultation process. Consultation by telephone usually allows emergency response to proceed with the least disruptive action.

In other words, the Endangered Species Act does not cause or exacerbate flood damages in my State. The bill is not needed.

But there is something worse about this bill. Not only will it not help prevent flood damages, it will cause a huge unintended consequence. That consequence is further loss of fishing jobs in our beleaguered sports and commercial salmon fishing industry.

Let me read from the Pacific Coast Federation of Fishermen's Association, that said about H.R. 478: "The ESA is a necessary tool for West Coast salmon recovery. A blanket exemption of this sort would lead to widespread extinction of large portions of the Pacific salmon fishery industry. Such a categorical exemption," as is in this bill, "grants a license to kill this Nation's valuable aquatic resources."

They go on to say that this is hidden ostensibly in the name of flood control. Mr. Chairman, I want to tell my colleagues that this license to kill will kill jobs in my State. It will kill jobs on the West Coast of this country. It is a bad bill. It is hiding the Endangered Species Act under this emergency. It is not a flood control bill. Vote "no" on H.R. 478.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. I thank the gentleman from California for yielding me time.

Mr. Chairman, debates like this make me wonder what we are doing here. I thought this was a House that put together laws that represented the people. I thought there was a phrase once said that laws were to be made of the people, by the people, and for the people. It seems that this debate is trying to tilt to laws of the beetle, by the beetle, and for the beetle. That is the debate, Mr. Chairman. Are we going to expend all kinds of resources and human energy to protect a beetle, or are we going to remember the people in this debate? Are we going to remember Bill Nakagawa, an 81-year-old very distinguished World War II veteran and

hero who risked his life to fight for life of the humans, property of the humans, and Bill Nakagawa died in this flood in California.

Mr. Chairman, it is time we get our priorities straight in this debate.

Mr. POMBO. Mr. Chairman, I yield 1½ minutes to the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I want to join my colleagues in strong support for H.R. 478. This bill is probably the most commonsense solution and needed piece of legislation that I have encountered in the 105th Congress.

Earlier this year, several States experienced severe flooding, including my State, the State of Nevada. Many people's lives and futures were put in jeopardy or lost because levees did not hold. The underlying question behind this is why. The reason is clear. Several of the levees were not adequately maintained or repaired to properly contain the water because of these very same governmental regulations.

H.R. 478 applies commonsense solutions to the Endangered Species Act when the act affects flood control projects. Let me state that the current law only allows the waiver of the ESA after a disaster happens. H.R. 478 amends the law to allow maintenance activities on flood control facilities to take place before a disaster strikes, not afterward.

Mr. Chairman, human life cannot be balanced against the life of a beetle or any other non-human species.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. HILL].

Mr. HILL. I thank the gentleman for yielding this time.

Mr. Chairman, the debate has been a little bit confusing here, but, simply stated, H.R. 478 places protection as a priority above redtape. When confronted with the need to make repairs to our Nation's flood control structures, delays can be fatal to people, to wildlife, and to the environment. Flood control structures work to preserve human life and animal habitat. It is important to everyone that they are properly designed, properly constructed, and maintained and repaired. If they fail when left unrepaired or improperly maintained, people, habitat, and the environment all lose.

Mr. Chairman, this bill is a commonsense approach to maintaining existing flood control facilities when there is a direct threat to public safety and human life. I urge my colleagues to support it.

Mr. POMBO. Mr. Chairman, I yield 1¼ minutes to the gentlewoman from Missouri [Mrs. EMERSON].

Mrs. EMERSON. Mr. Chairman, the eastern border of my district has 200 miles of Mississippi River frontage. I can tell my colleagues that when the Mississippi River floods, the wildlife head to our levees. If we are going to

talk about truly protecting wildlife, then I think the best way to do that is to have a levee that is structurally sound, well-maintained and able to withstand the extraordinary floods that we have had in the past few years.

Our levee boards, our drainage districts that work on a daily basis to maintain these levees, who touch and see and feel and who actually have some experience with the levees, oppose the Boehlert amendment and support H.R. 478. These folks have to face the daily threat of the Department of Interior and the EPA swooping down on them because they disturbed wildlife while doing some sort of general maintenance work, all in the name of endangered species. If we cannot do preventative maintenance, then the levees fail and we do not protect anything. As a matter of fact, our Department of Conservation every 2 years has to spend \$1 million to put the wildlife habitat back together. If the levees were intact, that would not be the case. That is just taxpayer dollars. If we cannot do preventative maintenance, the levees will fail, we will not protect anything, we will not save the communities, the people in those communities or the birds, the fish and the beetles. We have to be able to perform maintenance that prevents levee failures. As the gentleman from Nevada [Mr. GIBBONS] says, current ESA provisions allow repairs only after natural disasters have begun to destroy human life and property and only after the President declares this a Federal disaster area.

I urge support for H.R. 478. Let us put people first for a change.

Mr. POMBO. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. PETERSON].

Mr. PETERSON of Pennsylvania. Mr. Chairman, we have heard again and again today that H.R. 478 guts the Endangered Species Act. Is that true? Does it open the floodgates? I have listened to the evidence and the answer is no, no, no.

The Endangered Species Act is very important when we build levees, when we build dams, how we locate them, how it is going to affect creatures and people and protect people. But today we just want to maintain them. We want to keep them working so they perform what they were built to do.

The Endangered Species Act bureaucracy has failed us with endless delays. It has not worked. Does it open the door? No, we only can use it when there is critical imminent threat to public health and safety or to address catastrophic events, to make sure that our structures work.

I have listened to this debate carefully. There has been no evidence given that we are gutting the Endangered Species Act or endangering it in any way. It is a common sense bill brought about by the failure of the bureaucracy

that has enforced the Endangered Species Act to prevent us from just repairing the structures that have been built to protect this country.

Mr. MILLER of California. Mr. Chairman, I yield 30 seconds to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I have been on the Interior appropriations subcommittee for 21 years and when the new Republican majority took over, one of the first things they did was cut out the money for the work that is necessary under the Endangered Species Act.

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It was gutted in our committee, and the reason they are having difficulty in getting consultation done and other work done on the ESA is because they cut out the money for the bill, the money for the work.

Now if my colleagues are truly sincere about what they are trying to do today, they would offer an amendment to put the money back in so they could do the consultation.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I rise in support of the Pombo bill. Unfortunately, in the areas needing flood control facilities the maintenance of these facilities have been compromised by excessive mitigation requirements. While I and most of us do not quarrel with the need to take strong measures to conserve endangered species, we strongly disagree with placing species conservation priorities above flood control projects.

Mr. Chairman, what we need to be doing is trying to fix levees, streams, before we get to a flooding stage, and we think that what Mr. Pombo's bill does is allow us to protect the people in those areas. Let us fix those levees and streams, let us get to doing the job of doing that, and in doing that we think in the long term we will save species and we will save human life and property.

So, I would urge all my colleagues to support the Pombo bill, and I would congratulate him on this effort.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard a lot of reasons why we should gut the Endangered Species Act with this legislation. Unfortunately, most of them just turn out not to be true. We are told that the floods in northern California in the Yuba City area happen because of endangered species. But listen to what the Sacramento Bee, the newspaper of record, tells us, and what the Corps of Engineers tells us, and what the Fish and Wildlife Service tells us.

The fact of the matter is the Fish and Wildlife Service signed off on that project in 1990, 1992, and 1994, but what

happened? The local agency came in and asked that it be delayed so it could be built larger. Then the person who lost the bid came in and sued and delayed the project. That is why the project, it had nothing to do with endangered species.

We are told that somehow the floods in central California happened because of endangered species, that the lower San Joaquin failed. We had levees that were designed for 8,000 cubic feet per second; that had 80,000 cubic feet per second come through there in a flood, 10 times the amount of water. These were perfectly maintained levees, according to the Corps of Engineers. They failed because 10 times the amount of water.

The Coachella bypass, 10 times the amount of water that that levee was designed for came through that river and blew out those levees. Those levees were perfectly maintained, according to the Corps of Engineers.

What we have here is a ruse. The same coalition that brought us the repeal of the Endangered Species Act from our committee last year is bringing this to the floor. The same coalition that brought us logging without laws that almost devastated the forests of this country now brings us levees without laws. This is nothing more than to blow a hole in the Endangered Species Act that far exceeds the holes blown in the levees by 10 times the amount of anticipated water.

Historic floods, historic amounts of water, but what is their answer? Their answer is to repeal and exempt large, integrated, publicly subsidized water projects from any compliance with the Endangered Species Act, and that should not be allowed because the record is clear. Nobody can point to the Endangered Species Act in this case of suggesting that is why these levees broke. That is not what the corps said.

But the most important point is this. Mr. BOEHLERT's amendment allows all of those levees to be fixed, and it allows all of those levees to be maintained in anticipation of an eminent threat to health or safety. That is Mr. BOEHLERT's amendment. We do not have to blow a hole in the Endangered Species Act to take care of this problem. This problem will be taken care of by the substitute offered by the gentleman from New York [Mr. BOEHLERT] and the gentleman from California [Mr. FAZIO].

More importantly, that substitute will be signed into law. The rest of this is an interesting exercise, but the President has already said he would veto it.

So the point is this: The evidence is clear. These levees failed, these well-maintained levees failed, because of 10 times the amount of water blew through these levees than was anticipated before, and that was true up and down the State of California. And when

the gentleman from Louisiana [Mr. TAUZIN] waves that book of regulations, that is California law, that is not Federal law.

Mr. POMBO. Mr. Chairman, I yield 10 seconds to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I just want to refute what the ranking member said. We did not repeal the Endangered Species Act, nor did we attempt to. We tried to rewrite it without any help from the minority at all, and this administration has been asked many times, and they sit on their fat never mind. No, I am not yielding any time. The gentleman said we repealed; we did not. We tried to do what is right.

Mr. POMBO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in conclusion on the debate, I would just like to say that the point is we have drafted a bill which is designed to allow routine maintenance and operation of the levee system in California. That is what it is designed to do.

We have heard a lot of statements that have been made here today which are factually untrue. It does not gut the Endangered Species Act, it does not blow a hole in the Endangered Species Act; none of that is true. What it does is it allows regular routine maintenance of the levee system to happen on a timely basis. That is what it allows.

Mr. Chairman, the entire levee system was built to protect peoples' lives and property. Why do our colleagues find it so difficult to put that as a priority of the levee system? Is it so difficult for them to place people as the No. 1 priority of our levee system, of our flood control system?

Mr. Chairman, this is a simple bill that has a targeted, very narrow problem that we are trying to correct. That is what we are after at this time. All of the stuff we keep hearing from the minority really is just an effort to block passing on control to the local district managers and giving them the opportunity to manage their levee system.

Mr. BISHOP. Mr. Chairman, the Flood Prevention and Family Protection Act before us today provides an opportunity to restore a small amount of critically needed balance to the Endangered Species Act.

The Psalmist raises the question:

What is man, that Thou art mindful of him? . . .

For Thou hast made him a little lower than the angels, and hast crowned him with glory and honour.

Thou madest him to have dominion over the works of Thy hands;

Thou hast put all things under this feet.

All sheep and oxen, yea, and the beasts of the field;

The fowl of the air, and the fish of the sea, and whatsoever passeth through the paths of the seas. . . .

This bill gives this body an opportunity to clearly state what a majority of my constitu-

ents believe: the preservation of human life should take priority over the preservation of endangered species.

In July 1994, the Flint River in my State of Georgia flooded. Several lives and substantial property, including cropland, were lost in that flood.

If a local flood control official in Georgia needs the flexibility to prepare for a future flood on the Flint River, I want that official to have the flexibility needed to do what it takes. I do not want the Endangered Species Act to stand in the way of protecting the lives and property of the people I represent.

It is only common sense that any major flood is devastating to every plant and animal in its path.

Let's not be fooled into believing that an otherwise preventable flood will not further endanger the very plants and animals the Endangered Species Act was designed to protect.

Mr. LEVIN. Mr. Chairman, I am adamantly opposed to H.R. 478. This legislation is a transparent effort to gut the Endangered Species Act.

Supporters of this bill would have us believe that the Endangered Species Act was somehow responsible for the tragic floods that occurred earlier this year in the Midwest and California. There is simply no evidence to support their claim that the Endangered Species Act was in any way linked to these events. Both the Interior and Commerce Departments have emphatically stated that there were no cases where it could be demonstrated that the implementation of the Endangered Species Act caused any flood structure to fail. The truth is that the floods in California and the Midwest were the result of storms that were unprecedented in recent history. Reservoirs and levees were simply overwhelmed.

It should be noted the Endangered Species Act already contains emergency waiver provisions that permit the President to grant exemptions to ESA regulations in major disaster areas.

The legislation before us would undermine the basic protections of the Endangered Species Act. H.R. 478 would prevent species protection from being taken into account at any existing dam, levee or flood control project, even in cases where there is no conceivable threat to public safety.

Earlier this week, I received a letter from the sponsor of this legislation that contained a picture of water pouring over a breached levee with the admonition, "Let's work to Prevent this from Happening. Support H.R. 478." I wonder that the author of this letter did not also attempt to link the Endangered Species Act to last summer's crash of TWA Flight 800 or, for that matter, the sinking of the Titanic. Even the name of this bill is misleading. The "Flood Prevention and Family Protection Act" will neither prevent floods or protect families.

We should do everything humanly possible to reduce the possibility of future flooding. To that end, we must look to the real causes of these disasters. We should not use these tragedies to undercut the Endangered Species Act. I will support the substitute offer by Mr. BOEHLERT which allows repairs to flood control projects to go forward anywhere there is an imminent threat to human lives or property.

Should the Boehlert substitute fail, I urge the defeat of H.R. 478.

Mr. MILLER of California. Mr. Chairman, the assault on the basic environmental laws of this country is underway once again on the floor of the House of Representatives. Some 2 years ago, it was the "logging without laws" rider that legitimized devastating timber practices in utter disregard for the Nation's environmental protection and resource management laws.

Now we are presented with H.R. 478—the "levees without laws" proposal. This legislation pretends to be responsive to the victims of recent flooding, but its provisions go far beyond flood relief.

"Levees without laws" pretends to promote protection of families. But it really protects those who would sanction the permanent management of dams and other facilities without regard for the ESA, regardless of any danger of flooding.

We are once again being asked to legislate by anecdote: A Member cites a case where a levee failed, although there is plenty of doubt—and no real evidence—that the ESA had anything to do with that failure. And off we go: waiving the ESA on every flood control facility, anywhere in America, for repairs, reconstruction, maintenance, whatever; not just for this flood season, not just for imminent flood threats, but for any reason, and forever.

Let me tell you how far-reaching and damaging H.R. 478 would be, because the impact of passing this bill will not only be on the endangered species. It will be on your water districts. On your constituents who enjoy fishing. On commercial fishing operations. On logging companies and employees in your districts. On the economy of towns and counties you represent.

This bill doesn't wipe out the ESA, much as its sponsors would like to do. It just creates a great big exemption for levees and dams and other flood control facilities. Let me tell you what that means. If these projects are excused from making their contribution to ESA protection and mitigation, the whole burden is going to pass to those further downstream whose actions may impact on the species. The flood control district may escape its responsibilities, the farmer may escape his responsibilities. But that means that all the more impact will be felt by those other individuals, businesses, and activities that also affect the species.

This is directly contrary to the way we have been moving in species management protection. In California, where few have thought there was much chance for it, we have brought irrigators and cities and environmentalists and fishermen together and pounded out agreements on how to apportion water and how to manage our resources. It isn't easy and it doesn't always work quickly; but everyone stays at the table and negotiates because they know their interests are best protected by their being there and participating.

But H.R. 478 tells the levee districts and the flood control districts: You're free to do whatever you want that affects endangered species, as long as you can call it maintenance or repairs or operations. You get to get up and walk away from the table, and pass all those responsibilities and burdens on to other people and economic interests in your community.

You alone do not need to consult with anyone else; you do not need to participate in the species protection program, even though excusing you may well double or triple the burden for the logging industry, or municipalities, or the fishing industry, or the recreation industry.

This isn't speculation; this is what is going to happen if we exempt maintenance and operational requirements of dams to protect endangered fish, like salmon in the Pacific Northwest. That is what H.R. 478 will do. The Everglades ecosystem could be devastated if the central and south Florida flood control project no longer has to consider endangered species with respect to water diversions and flows. Decisions on outflows in the Sacramento-San Joaquin Delta and San Francisco Bay will no longer have to consider impacts on delta smelt or winter run chinook. In the Upper Colorado Basin, purchases, sales, and exchange of water rights, which users have come to rely on, would cease.

That is what H.R. 478 will do.

Now, no one—and I stress that again, no one—is saying that the ESA should interfere with efforts to repair and rebuild damaged facilities, or to make necessary repairs to prevent flooding from occurring. The Fish and Wildlife Service has approved such waivers. The Army Corps of Engineers has agreed. An amendment to rewrite H.R. 478 to permit those emergency actions is going to be offered later today by the gentleman from New York [Mr. BOEHLERT].

But that is not what H.R. 478 does.

There is no urgent need for those provisions of H.R. 478 that go beyond the relief for flood victims and prospective flood areas, as provided in Mr. BOEHLERT's amendment. The additional issues raised in H.R. 478 are extraneous to the debate over flooding. They deserve to be addressed during the comprehensive debate over reauthorization of the Endangered Species Act in the Committee on Resources. Our committee, however, has not yet begun that debate, and it is premature and inappropriate to bring these complicated issues before the House when we simply will not have the time nor expertise to address such wholesale changes to the ESA.

Let us keep the focus where it belongs today: On the floods of 1997 and what we should do to alleviate the damage and loss of those who have suffered or who might suffer from future flooding.

As both the Corps of Engineers and the Department of Interior have stated, as many of the witnesses that testified at our hearing stated—the California levees broke because there was too much water, not because of the ESA. The rains and the melting snowpack combined to produce water that were 10 times the normal rates in some cases.

Waiving the ESA is not going to stop floods. We have to consider many options: restoring channel complexity, wetlands protection, and setback levees, so that we can catch the water where it falls instead of dumping it down stream. We need to look at forest management policies that allow upstream clear cutting and the construction of logging roads which lead to erosion and slides that not only destroy valuable fisheries habitat, but contribute to downstream floods as well.

We should provide more direct and indirect aid for moving homes and businesses out of

the hazard zone, and we must limit the circumstances where we will permit the use of Federal funds to rebuild in harm's way. Existing levees systems should be re-engineered to ensure that they maximize flood hazard reduction. Rather than relying solely on repairs to existing levees, the Corps of Engineers should review the causes of the breaks and determine whether levees should be moved or constructed differently to withstand future floods. Finally, we need to look at how project planning and contracting processes and local funding issues slow the repairs and maintenance that need to be done.

This bill does not address any of those problems, however. Instead, it focuses on one single aspect of the flood control planning process and takes a sledge hammer to the ESA.

Please remember this bill is not about flood protection. It is an initial, and a sweeping, weakening of the Endangered Species Act that applies to any activity, on any flood control project, at any time, rain or shine. Flooding, or the threat of flooding, does not even have to be an issue.

If this bill passes, no flood control project will ever be required to mitigate for its maintenance activities ever again. Nor will there be a requirement for mitigating the impacts of replacement, repair, rehabilitation, or operational activities regardless of whether these activities were conducted to protect human lives or property, and regardless of the impacts on endangered species.

Now if there were no alternative but to choose between human lives and property or an endangered species, the argument would be different. But there is an alternative. We can provide the flexibility that is needed in the event of floods and flood threats, and we can do that without destroying the Endangered Species Act. We can achieve those goals by supporting the Boehlert substitute without modification when it is offered.

Mr. PACKARD. Mr. Chairman, it is unbelievable that an outdated law to protect endangered species is causing catastrophic harm to animals, humans, and agriculture. In my home State of California, the floods of 1997 have already caused the deaths of nine people and more than \$1.6 billion in total damage. If flood control structures had been properly maintained, this loss of life and property could have been avoided. Unfortunately, the Endangered Species Act prohibits much-needed maintenance of these areas. In fact, the very animals who kept the flood control structures from being repaired in the first place were also displaced and killed by the devastating floods.

In January 1997, California experienced the worst flooding in State history. However, California was not alone. Numerous other States were ravaged by flood waters. Most recently, the citizens of North Dakota saw the waters destroy their towns and homes. It is horrible to see the loss of life and property which resulted from the devastating floods. However, it is far worse to realize that some of this damage could have been avoided.

Mr. Chairman, I applaud my dear friend and colleague WALLY HERGER for introducing the Flood Prevention and Family Protection Act which attempts to prevent the disaster of flooding. As a proud cosponsor of this bill, I

know that we must prevent these disasters before they occur. Once the floods have destroyed our homes, there is little we can do to restore the photo albums and family treasures. However, we can take the appropriate steps toward avoiding future flooding problems by enacting this bill. This legislation will allow for proper maintenance, repair, and reconstruction of existing dams, levees, and other flood control systems. Not only will this bill save lives and ecosystems, but homes and family memorabilia. I am very pleased to support this legislation today.

Ms. ESHOO. Mr. Chairman, I rise in opposition to H.R. 478, the so-called Flood Prevention and Family Protection Act of 1997.

This bill will not provide any more protection beyond current law to those who live in areas threatened by flooding. Instead it will create a giant sinkhole in the Endangered Species Act.

Right now, without passage of this bill, the Endangered Species Act has provisions that allow for expedited review for improvements or upgrades to existing structures in emergencies.

This bill will permanently exempt the reconstruction, operation, maintenance, and repair of all flood control projects, including dams, hydroelectric facilities, levees, and canals. This means that operations like those designed to revive the salmon on the Pacific Coast could be threatened and possibly suspended. As Secretary of the Interior Bruce Babbitt has pointed out this could exempt the entire Columbia River basin from provisions of the Endangered Species Act.

Some Members have said that the Valley elderberry longhorn beetle delayed repairs which caused the levees to collapse. However, as my colleague, Mr. MILLER, has pointed out the levees that failed in the Central Valley failed not because they were not repaired, but because there was 10 times the amount of water than the levees were designed to withstand.

H.R. 478 is not a flood prevention bill. Instead it is a backdoor assault on the Endangered Species Act, and I urge my colleagues to adopt the substitute offered by Mr. BOEHLERT and Mr. FAZIO and reject H.R. 478.

Ms. PELOSI. Mr. Chairman, the bill before us today is an ill-advised, destructive approach to a law that was intended to protect species from extinction, not to be manipulated as a substitute for poor disaster response.

Natural disasters affect human lives and can be devastating to local communities and economies. My community has certainly experienced its share of natural disasters and I know firsthand the difficulties people encounter in rebuilding their homes and lives in the aftermath of such devastation. We should be sensitive and responsive to these human needs, and we should address them on an immediate basis. Residents in flood-prone areas should be protected and added steps can be taken to ensure the safety of people and their property in these areas. Response to the California flood disaster should not be used as an excuse to obliterate the law that gives lasting defense to the survival of threatened species on Earth.

In an emergency threatening human lives the current law provides for the Endangered Species Act to be waived.

But H.R. 478 goes to the extreme in allowing a nonemergency exemption of the act with the result of permanently decimating the intent of the ESA. It would codify actions now considered damaging to the protection of species the law was intended to protect. H.R. 478 will not prevent floods, but it will prevent needed environmental protection of threatened species.

The Pacific Coast Federation of Fishermen's Associations advises a vote against H.R. 478 on the basis of the potential threats to restoration of northern California salmon populations under the ESA. In their letter they emphasize:

The California Central Valley is the source of most of the West Coast's remaining salmon harvests. Eliminating ESA-driven water reforms in the California Central Valley Project would seriously damage Washington's Oregon's and California's salmon harvests, wiping out tens of thousands of fishery jobs as far north as Alaska which those resources now support.

The arguments linking flood damage to the ESA are unfounded. In the Statement of Administration Policy, OMB states:

The administration of ESA by the Fish and Wildlife Service [FWS] and the National Marine Fisheries Service has not resulted in significant delays in construction or proper maintenance of flood control facilities. For example, during the recent California flooding, FWS implemented ESA provisions which allowed emergency actions in disaster areas to be taken quickly without the Act's normal "prior consultation" requirements.

In the Dissenting Views filed with the committee report to H.R. 478, it is noted that both the Department of the Interior and the Corps of Engineers,

were emphatic that there were no cases where it could be demonstrated that the implementation of the ESA caused any flood structure to fail, or where the presence of any listed species prevented the proper operation and maintenance of flood control facilities.

H.R. 478 is a misdirected attack against an imaginary enemy. The Endangered Species Act did not cause California's devastating floods. Our response to this disaster can be positive—let's repair or replace the damaged flood control facilities under the current ESA waiver and work together on sound water management policies that will protect people and the environment into the future.

This is the most important environmental vote to come before the House in this session. We should not revisit the rancor of the last Congress where the majority went against the mainstream of public sentiment which favor greater protections for our environment. In a letter to Members of Congress, the President of Republicans for Environmental Protection states that

the American people do not want to see our environmental laws weakened. And they certainly do not want to see such things accomplished by bad, opportunistic legislation such as H.R. 478.

I urge my colleagues to join the bipartisan initiative and support Boehlert-Fazio amendment and to vote against final passage of H.R. 478.

The Endangered Species Act must not be another casualty of the floods.

Mr. POMBO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The amendment in the nature of a substitute printed in the bill shall be considered by section as an original bill for the purpose of amendment, and pursuant to the rule, each section is considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Flood Prevention and Family Protection Act of 1997".

Mr. POMBO. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

#### SEC. 2. PURPOSE.

The purpose of this Act is to reduce the regulatory burden on individuals and local, State, and Federal agencies in complying with the Endangered Species Act of 1973 in reconstructing, operating, maintaining, or repairing flood control projects, facilities, or structures to address imminent threats to public health or safety or catastrophic natural events or to comply with Federal, State, or local public health or safety requirements.

#### SEC. 3. AMENDMENTS TO ENDANGERED SPECIES ACT OF 1973.

(a) ACTIONS EXEMPT FROM CONSULTATION AND CONFERRING.—Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following new paragraph:

"(5) Consultation and conferencing under paragraphs (2) and (4) is not required for any agency action that—

"(A) consists of reconstructing, operating, maintaining, or repairing a Federal or non-Federal flood control project, facility, or structure—

"(i) to address a critical, imminent threat to public health or safety;

"(ii) to address a catastrophic natural event; or

"(iii) to comply with Federal, State, or local public health or safety requirements; or

"(B) consists of maintenance, rehabilitation, repair, or replacement of a Federal or non-Federal flood control project, facility, or structure, including operation of a project or a facility in accordance with a previously issued Federal license, permit, or other authorization."

(b) PERMITTING TAKINGS.—Section 9(a) of such Act (16 U.S.C. 1538(a)) is amended by adding at the end the following new paragraph:

"(3) For purposes of this subsection, an activity of a Federal or non-Federal person is not a taking of a species if the activity—

"(A) consists of reconstructing, operating, maintaining, or repairing a Federal or non-Federal flood control project, facility, or structure—

"(i) to address a critical, imminent threat to public health or safety;

"(ii) to address a catastrophic natural event; or

"(iii) to comply with Federal, State, or local public health or safety requirements; or

"(B) consists of maintenance, rehabilitation, repair, or replacement of a Federal or non-Federal flood control project, facility, or structure, including operation of a project or a facility in accordance with a previously issued Federal license, permit, or other authorization."

The CHAIRMAN. Are there any amendments to the committee amendment in the nature of a substitute?

AMENDMENT OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I offer an amendment. It is printed in the RECORD as No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Pombo:

Page 3, after line 12, insert the following new line after the word "authorization": "where necessary to protect human life or to prevent the substantial risk of serious property damage."

Page 4, after line 8, insert the following new line after the word "authorization": "where necessary to protect human life or to prevent the substantial risk of serious property damage."

MODIFICATION TO THE AMENDMENT OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I ask unanimous consent to correct line references in my amendment as follows:

The reference to page 3 after line 12 should be page 3 after line 15, and the reference to page 4 after line 8 should be page 4 after line 12.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendment, as modified, is as follows:

Page 3, after line 15, insert the following new line after the word "authorization": "where necessary to protect human life or to prevent the substantial risk of serious property damage."

Page 4, after line 12, insert the following new line after the word "authorization": "where necessary to protect human life or to prevent the substantial risk of serious property damage."

Mr. POMBO. Mr. Chairman, in an effort to reach a consensus on this bill we have worked long and hard. I have met with Members of the minority repeatedly, I have met with Members of my own party who had concerns repeatedly. We have narrowed the bill substantially from the way it was first introduced. But as of last night, or as of yesterday, there were still concerns

that maybe the bill could be interpreted to be more broad than the intention.

Because of that and in consultation with the gentleman from California [Mr. CAMPBELL] a decision was made that we would add additional language to the bill which would narrow the scope and meet his concerns.

Having said that, I yield to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, for purposes of debate, what I would like to do is inform my colleagues and friends on the other side of this issue that I would like to use the 4 minutes, but then I would be happy to engage in debate with any colleague on their time. I will stay here for that purpose.

Here is what my amendment does: I believe that the present Herger-Pombo bill is too broad. I have great respect for my two colleagues from California, but I believe they created an exemption that was too broad. So I began to speak with them and I said, "What is the real focus of your concern?" They point out that the real focus of their concern is when a levee bursts, when there is harm to human life or substantial risk to properties in that kind of context.

So I said, "Why do we not limit your amendment to the specific cases we just discussed?" They agreed. Here is what the amendment says: After all of the provisions that we have talked about regarding a maintenance, rehabilitation, repair or replacement of a Federal or non-Federal flood control project, after all of those, the limitation would now be imposed: "where necessary to protect human life or to prevent the substantial risk of serious property damage."

That being my amendment, I offered that to my colleagues; and they were kind enough to say that they would accept it. I put to my colleagues, give me the case when you would not be in favor of expediting maintenance, rehabilitation, repair or replacement when it is necessary to protect human life? I just do not think anyone would have such a case. Or where it is necessary to prevent the substantial risk of serious property damage?

With that limitation, it is no longer true that the Herger-Pombo bill runs a serious risk of "blowing a hole in the Endangered Species Act." The bill is now limited to restoration of existing projects that already have a Federal permit where necessary to protect human life or prevent the substantial risk of serious property damage.

It was raised in debate by one of my colleagues, the gentleman from New Jersey [Mr. PALLONE], that we ought to await the comprehensive Endangered Species Act reform before adopting an amendment such as mine, or a proposal such as mine.

I remember when I first came to Congress in 1989, we began talking about the Endangered Species Act. When I left in 1992, we were still talking about the Endangered Species Act. We never got a chance to reauthorize the Endangered Species Act. We are really playing with people's lives to say, let us wait until we have the overall omnibus Endangered Species Act.

What we have now is a proposal dealing with a specific crisis and the steps necessary to prevent other crises. I would love to see the Endangered Species Act amended in order to take this into account, but we cannot wait for that to happen.

Lastly, in my opening remarks, the subject of the Boehlert amendment has been raised. I have a very good friendship with the gentleman from New York [Mr. BOEHLERT]. I admire him immensely. But I do refer to the fact that his amendment refers to imminent threat, there has to be an imminent threat—except for the case the repairs of those properties that were damaged in California in the most recent flooding. Imminent threat means that the water is already rising.

Mr. BOEHLERT. Mr. Chairman, would the gentleman from California yield?

Mr. CAMPBELL. Mr. Chairman, I cannot, but I am happy if the gentleman would yield me time on his time to conduct a discussion. That was what I said at the start. So I will stay here for that debate, Mr. Chairman. I look forward to debating the gentleman from New York [Mr. BOEHLERT].

But the phrase in the amendment of the gentleman from New York [Mr. BOEHLERT] is, "in response to an imminent threat to human lives and property." And contrast that with my phrase, "where necessary to protect human life or to prevent the substantial risk of serious property damage."

It is all the difference in the world between waiting for the disaster to be so imminent. Are you going to have to build up the berms higher, or can you take the action in advance when the imminent threat is not yet upon you, but where it is wise to act.

I have only one final remark in my opening remarks, and that is that my good friend, the gentleman from New Jersey [Mr. SAXTON], said that my amendment was broad enough so that everything would be included in it. That is not so. Perhaps in debate further I will be able to illustrate why, as my time is presently expired.

Mr. FARR of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, while the gentleman from California [Mr. CAMPBELL] is there, maybe I can have a colloquy with him. Is it the intent of the gentleman that his amendment will affect all of section B?

Mr. CAMPBELL. Mr. Chairman, if the gentleman will yield, it is my intent to affect all of section B.

Mr. FARR of California. OK. Mr. Chairman, on my own time, the issue raised here is whether this amendment really does anything to the bill. Remember, we are dealing with the issue of flood control projects. Flood control and the purpose of flood control is to control damage done by excessive water.

I do not think that the amendment is material to really what the purpose of the bill is, which is to drive a hole in the Endangered Species Act by exempting from that act consultation for operations. Remember, there is nothing in the language in this bill that even mentions the word "levee," yet everybody who got up and proposed it said that this was a levee bill.

This is about operations of water facilities, operations forever, not just when it rains, not just when there is flood damage, it is operations. Operations is why so many people are concerned about this, particularly the fishermen.

□ 1600

The reason, the gentleman from California [Mr. CAMPBELL] knows, is that in California with the Sacramento River the whole issue of water flow releases is to try to control the water temperature so that we can maintain a salmon run. If there is not enough water, the water gets too warm and then the species that lives in that water cannot survive. So the purpose of trying to make sure that when we are operating a flood control district, that we consult in this process, is so that we get all of the concerns on the table.

The Corps of Engineers has interpreted this "structures and projects" to mean dams, to mean pumps, levees, dikes, channels, draining systems, dredging projects, reservoirs, and even beach erosion control. In the committee the issue was raised that it was going to include beach erosion control, and the author indicated that he would accept an amendment to that, although we do not see it in the bill at all.

So the bill on the floor with the gentleman's amendment I do not really think ensures that we are going to be able to continue to maintain these facilities for all the interested parties that rely on water usage, and that is the purpose of flood control districts.

Mr. CAMPBELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my purpose in asking for 5 minutes now is to complete my one last comment regarding the point made by the gentleman from New Jersey [Mr. SAXTON], and then to yield to anyone who wishes to engage in debate. I see my colleague from California [Mr. POMBO], wants a word, but let us save some time for debate, because I do wish

to have the opportunity for anyone who wishes to debate me on this to do so.

The one last thing I wished to comment on was the point of the gentleman from New Jersey [Mr. SAXTON], Mr. Chairman, and that was that my amendment was too broad because everything would fit in it, in that all flood control is done to prevent risk of loss of life, or serious property damage. This is not quite correct because my amendment deals with maintenance, rehabilitation, repair or replacement; it does not deal with construction.

For instance, once the flood control device, the berm, has broken, then there is no further imminent loss of property, nor any further imminent loss of life. The imminent loss of life, the threatened, or the likely prospect of it, is when the tension is building up behind the berm. Once that is broken, as to whether that particular part is reconstructed or not would no longer pose a question of the necessity to protect human life, because it has already broken, that pent-up pressure is gone. Nor would it any longer present a substantial risk of serious property damage.

So I hope that answers the question of my good friend from New Jersey. I would be happy to yield to him further if he wants to respond to it. But I believe I responded to his point. I believe I responded to the other points, as well.

This is a sensible improvement on Herger-Pombo. I do not see anyone in the Chamber who ought to oppose this amendment. I would go further to say that this makes a such a further improvement that the Boehlert amendment is unnecessary, and on that there may be further debate. However, on whether my amendment is desirable, I just do not think there is further dispute.

Mr. Chairman, I yield to my friend, the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I thank the gentleman for yielding. I just wanted to add, in response to a statement by the gentleman from California [Mr. FARR] and the gentleman from California [Mr. MILLER], even if this legislation were to pass and be signed into law, I have a list from an environmental impact statement for the Sacramento River system control plan which listed the following Federal laws which must be complied with before the levee repairs could begin:

National Historic Preservation Act, Archaeological and Historical Preservation Act, Archaeological Resources Protection Act, Preservation of Historic Properties, Abandoned Shipwreck Act reviews, Clean Air Act, Clean Water Act, Coastal Zone Management Act, the Endangered Species Act, the Estuary Protection Act, the Federal Water Project Recreation Act, and it goes on and on and on. It has over 20

Federal laws and State laws that we had to abide by before we could repair the levee.

All we are asking for is to allow us to maintain our levees. That is all we are asking for, to protect human life and private property. This is not that difficult.

Mr. CAMPBELL. Mr. Chairman, reclaiming my time, I will now yield to anyone who wishes to debate me on this amendment. If there anyone who wishes to debate me?

Mr. FARR of California. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from California.

Mr. FARR of California. Mr. Chairman, why is the word "levee" in here? It is projects. It is all of these projects.

Mr. CAMPBELL. Mr. Chairman, reclaiming my time so that I might respond, there is more than one form of flood prevention, and a levee would be only one form. There are other forms of flood prevention.

Mr. FARR of California. Mr. Chairman, there are dredging projects.

Mr. CAMPBELL. Mr. Chairman, I reclaimed my time to answer the question and I am almost done.

The purpose here is that whatever project it is that will be necessary to prevent—not just be helpful but be necessary to protect human life or to prevent substantial risk of serious injury—I wish to cover; and if that is more than a levee, it is for a good purpose, because it has that qualifier, where necessary to protect human life or prevent substantial property loss.

Now I yield to my colleague. Go right ahead.

Mr. FARR of California. Mr. Chairman, I appreciate that explanation.

My point that I made to the gentleman from California [Mr. POMBO] was that I think the bill goes far beyond what he originally intended, because it goes into projects that are greater than levees. It goes into dredging, it goes into dams, it goes into beach erosion, and I do not think that was what the intent was as a result of the problem that occurred in the Sacramento Valley.

Mr. CAMPBELL. Mr. Chairman, again reclaiming my time, as to all of those, I remind my good friend from California, as to all of those, the language I just announced would apply, that in answer to the gentleman's question earlier, the limitation "where necessary to protect human life" or the limitation "where necessary to prevent the substantial risk of serious property damage" applies to all of B.

Mr. CAMPBELL. Mr. Chairman, I yield to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, it was mentioned, dredging, dams. Could they dredge, if the gentleman's language was adopted as part of this bill, could they go in and dredge under that language?

Mr. CAMPBELL. Mr. Chairman, reclaiming my time, they could, only where necessary to protect human life or to prevent substantial risk of serious property damage. Off the top of my head, that would be a very narrow case.

The CHAIRMAN. The time of the gentleman from California [Mr. CAMPBELL] has expired.

(On request of Mr. VENTO, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, the gentleman portrays as a qualification a very high threshold, "where necessary to protect human life or serious property damage." I think I have it right. I was trying to get a copy of it. In searching two areas of the bill, both undertakings to eliminate the clause undertakings and consultation and conferencing, is that correct?

Mr. CAMPBELL. Mr. Chairman, I would say in response, not quite. The phrase is "necessary to protect human life or to prevent the substantial risk," just if I could answer, taking my time back to answer your question fully, "or to prevent the substantial risk of serious property damage."

Mr. VENTO. Mr. Chairman, if the gentleman would continue to yield, of course that is an additional qualifier, risk. So, for instance, if I am riding barges up and down the Mississippi, and I represent a community on the Mississippi, and it is portrayed that in order to maintain the channels so that the barge would not run into one of the wing dams, that then, which would run the risk of deck hands on the barge just falling off and perhaps drowning in the river, would that be an adequate test then, to prevent the loss of these individuals from falling in the river and drowning?

Mr. CAMPBELL. Mr. Chairman, reclaiming my time, not necessarily. The reason is I did not say just to prevent risk or minimize risk or lower risk. I intentionally said prevent substantial risk, which would be to say that you would have to bring the probability of it happening from a high number down to a low number.

Mr. VENTO. Mr. Chairman, if the gentleman would yield down, I think the issue is being portrayed as some sort of a crisis. Is it a crisis to in fact go through the National Environmental Protection Act and the Clean Water Act and other activities, and all of a sudden the Endangered Species Act would not be important in terms of trying to prevent, for instance, that barge, because if we did not have the channel, it might run into a bridge and cause serious property damage?

Mr. CAMPBELL. Mr. Chairman, reclaiming my time in order to answer, lest we run out of time.

Mr. VENTO. Mr. Chairman, I would say to the gentleman, I will ask for more time if we run out.

Mr. CAMPBELL. Mr. Chairman, I am just worried that I will not get to answer.

Mr. VENTO. Mr. Chairman, I am pleased because I would not want the gentleman to think that there is not concern or opposition about his amendment or that it solves the problem, because I do not think it does.

Mr. CAMPBELL. Mr. Chairman, I would say to the gentleman to please proceed as long as he likes and then I will respond. I apologize for the interruption.

The CHAIRMAN. The time of the gentleman from California [Mr. CAMPBELL] has expired.

(On request of Mr. VENTO, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 1 additional minute.)

Mr. CAMPBELL. Mr. Chairman, if the gentleman would allow me to say that there is need for something less than imminent risk, because imminent is what the Boehlert amendment proposes, and more than ordinary maintenance. What I am trying to do is get at the prevention where the threat is high.

So if we want to go just with the imminent risk of something about to happen, then that is Boehlert. It is not good enough. Now, however, should we allow any old dredging, any old maintenance without ESA; no, that is not my desire. It has to be to prevent a substantial risk of serious property damage, or necessary to protect human life.

Mr. VENTO. Mr. Chairman, if the gentleman would further yield, the gentleman is a very good attorney and learned in law. The gentleman in the well is just a humble science teacher. But I would suggest to the gentleman that in fact this will be used. As it affects this particular law, I have no objection to it in terms of what is down here. It may be somewhat of an improvement, but I do not think it gets to the criticisms and the concerns that I have and frankly the Boehlert-Fazio amendment deals with in this bill.

I thank the gentleman for yielding.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for his courtesy.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would inquire of the chairman of the subcommittee, I do not think there is any opposition here to accepting this amendment. We believe it is basically a restatement of law, and we have a long night ahead of us.

Mr. POMBO. Mr. Chairman, if the gentleman would yield, I do intend on accepting the amendment.

Mr. MILLER of California. Mr. Chairman, that is fine with us.

Mr. POMBO. Mr. Chairman, if the gentleman would continue to yield, this is a friendly amendment. The committee is in agreement with the work that the gentleman from California [Mr. CAMPBELL] has done and we intend on accepting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. POMBO], as modified.

The amendment, as modified, was agreed to.

#### AMENDMENT NO. 1 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. BOEHLERT:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Flood Prevention and Family Protection Act of 1997".

#### SEC. 2. PURPOSE.

The purpose of this Act is to ensure that the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) does not delay flood control facility repairs that are required to respond to an imminent threat to human lives and property.

#### SEC. 3. AMENDMENTS TO ENDANGERED SPECIES ACT OF 1973.

Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following new paragraph:

"(5)(A)(i) Consultation and conferencing under paragraphs (2) and (4), with respect to a project to repair or replace a flood control facility located in any area in the United States that is declared a Federal disaster area in 1997, shall only be required in the same manner and to the same extent as would be required for that project if it were carried out in the area in California that is subject to the United States fish and Wildlife Service Policy on Emergency Flood Response and Short Term Repair of Flood Control Facilities, issued on February 19, 1997.

"(ii) This subparagraph shall not apply to projects in a Federal disaster area after the earlier of—

"(I) the date the Assistant Secretary of the Army for Civil Works determines that all necessary emergency repairs to flood control facilities in the area have been completed; or

"(II) December 31, 1998.

"(B)(i) Consultation and conferencing under paragraphs (2) and (4), with respect to any project to repair a flood control facility in response to an imminent threat to human lives and property, shall only be required in the same manner and to the same extent as would be required under the policy referred to in subparagraph (A)(i) for a project that is substantially similar in nature and scope.

"(ii) This subparagraph shall not apply after December 31, 1998.

"(C) This paragraph shall not affect the authority of the President under section 7(p)."

Mr. BOEHLERT. Mr. Chairman, this substitute would accomplish what the sponsors of H.R. 478 only claim to do. That is, it would ensure that the En-

dangered Species Act never subverts emergency work to prevent or respond to floods, while keeping fundamental species protection intact.

Here is precisely what this substitute would do. First, in disaster areas it would allow the repair or replacement of flood control facilities to move forward without prior consultation with the Fish and Wildlife Service. This would mean, to use my opponents' terminology, that no redtape or faceless bureaucrats could prevent emergency repairs from proceeding immediately.

Second, in places that are not disaster areas, let me stress, not disaster areas, my substitute would allow repairs to move forward without prior consultation whenever a flood control project poses an imminent threat to human life or property.

Now, the sponsors of H.R. 478 ought to like that language. It is taken from the one targeted section of their bill.

Third, the substitute makes clear that we are not limiting in any way the President's authority to issue further exemptions in disaster areas.

Fourth, the substitute is an amendment to the Endangered Species Act.

I need to emphasize these points because the opposition has repeatedly mischaracterized this amendment. In this substitute, we have responded to virtually every real concern we have heard about the ESA and flooding. We have heard that the ESA has prevented repairs from taking place. This substitute ensures that repairs can take place.

We have heard that repairs are needed not only in disaster areas, but throughout the country. This substitute addresses potential disasters as well as actual ones.

This substitute clarifies language in the supplemental appropriation that was approved by voice vote, so it can hardly be accused of appealing to a narrow constituency. So what have we done? Again, we have responded to what we have heard is actually or potentially harmful about the ESA and emergency situations.

However, here is what we have not done. We have not used these legitimate concerns as an excuse to undermine fundamental species protection. H.R. 478 would emasculate the Endangered Species Act. Our substitute, while creating new exceptions, would keep the law fundamentally intact.

Most endangered species live along or in waterways. H.R. 478's blanket exemption for flood control projects, even with the language of the gentleman from California [Mr. CAMPBELL], threatens any species that depend on waterways to survive.

The endangered species actions that have been taken to protect salmon, whooping crane, sea turtles, manatees, and other creatures would not have been possible if H.R. 478 had been in effect.

□ 1615

Protecting newly listed species would be virtually impossible under the bill. That is why this bill is opposed by every environmental group, by Republicans for Environmental Protection, by American Rivers, by the International Association of Fish and Wildlife Agencies, by Trout Unlimited, by the American Canoe Association; by just about any group, large or small, that has any interest in protecting our waterways and their denizens.

It is not that these groups do not care about human beings. It is not that these groups are all in agreement on ESA reform. It is that they understand that H.R. 478 is quite literally a case of overkill. My substitute accomplishes H.R. 478's stated objectives without threatening the environment.

Let me add, Mr. Chairman, that I do not claim that my substitute takes care of every legitimate concern with the Endangered Species Act. Some Members, for example, have concerns with the cost of mitigation. But our express purpose here today is to take care of narrow problems related to emergency situations. Mitigation is a broad and fundamental issue that must be addressed in the context of comprehensive ESA reform. I daresay that a comprehensive bill would not reform mitigation in the ham-handed way envisioned by H.R. 478.

Let us not hold up emergency legislation because additional concerns must be addressed at a later time. My substitute would be signed into law and would provide real relief for real people facing real emergencies. H.R. 478 would not be signed into law and will not help anyone. By voting for it, I would suggest Members would be making the wrong move. I urge my colleagues to support balance, moderation, a real solution for a legitimate problem.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the so-called Boehlert amendment, here, let me go through something. It fails to protect human life and the environment. It is too little too late. It allows only emergency repairs when disaster has already occurred or is threatening. By the way, it protects Federal employees from the ESA penalties for impacting habitat, but keeps the penalties for local officials. It ties their hands. They cannot maintain these levees.

By the way, it is only temporary. I want the gentleman from California [Mr. FAZIO] to hear this, it is only temporary. It is only temporary. It is only temporary until 1998. It retains unfunded mandates on States and local governments, and frankly, would continue further delay through encouraging litigation. This is a charade of amendments. This is an amendment that does nothing. In fact, I do not know why the gentleman is even offering it. It does nothing, absolutely zero.

May I remind the gentleman, it says, "This paragraph shall not apply after December 31, 1998." That says you only have time to repair the existing breaks, the ones that broke. I am not really worried about the ones that broke, and I feel sorry for the people, but I want to prevent those breaks and the dollars we have wasted. May I stress, \$10 million was used to mitigate. They finally agreed last week to repair the levee. It was supposed to cost \$3 million, now \$13 million. The levee breaks, which we were told it was going to break, and we lose the lives, we lose the property, and guess what, we lost the habitat. We lost the habitat. We ought to be proud of what the ESA has been able to do.

Mr. Chairman, this amendment guts the so-called Herger-Pombo bill. I think that is really what they are trying to do is gut it. They are trying to put a charade out and trying to protect a few people who might be directly affected by supposedly not supporting the Pombo-Herger bill, but in reality, it does nothing. It, in fact, is worse, because it takes the California doctrine and applies it to the rest of the Nation.

As I have told people before, if they want California's problems and the bureaucracy, then vote for the Boehlert amendment. Mr. Chairman, I suggest respectfully, if Members want to solve a problem, then they will vote for the Herger-Pombo bill. They will make this bill a reality. They will make this bill save lives, save property.

By the way, I heard somebody today say we have to change the way man is living. We have to give more room to let the water go out and meander like it did back in the year 1600. Think about that a moment. That means the whole city of Houston is gone. Some people might like that. It means the whole city of New Orleans will be gone. I would not like that. It means probably Sacramento would be gone, too, period, and flooded out. I am sure the gentleman from California would not like that.

Probably, I might suggest respectfully, if we want to follow this theory of the so-called environmental groups who are supporting Boehlert, we all ought to be drowned. Think about that a moment. I will admit, I lived on a levee. I was born on the Sacramento River. I looked out on that river every morning when I got up. I watched it flood.

Yes, we could not dredge. I admit that now. Then we did. I will tell the Members something; those levees were built way back during the Gold Rush days. We rebuilt them. It has given California one of the finest standards of living in the world. It has protected people and property, and it is a system that does work.

We can talk about the thousands and thousands and thousands of acres and feet of water that go down and are

wasted and going into the ocean, and by the way, I want the gentleman from California [Mr. MILLER] to hear that. We had a drought in California a few years ago, does the gentleman remember that? We had no water. Now they have water clear up to their elbows.

I am suggesting respectfully if they want to take and have the Endangered Species Act, stop repairing those levees, then, very frankly, they can vote for the Boehlert amendment. We can forget lives, we can forget property, we can forget those people that live all around this great Nation of ours near water flow.

I know some of us would like to have more wetlands. I know how they can create wetlands. They can flood Sacramento, the city of Sacramento, the capital, by the way; they can flood every major city, and they will have wetlands. I do not believe in that. I think it is important we allow this tool to be available for the local people, that this tool be available for the Federal people, so we can in fact solve the problems of the flood.

It is wrong not to maintain these levees. Some people say they did not cause the flood. We have documentation with the Corps of Engineers where they did say this area will break if it is not addressed, and it did break. So do not tell me that these areas did not create floods.

I will say, every break, by the way, is not caused by the Endangered Species Act, but we can have both. We can have the Endangered Species Act and we can have the people.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(On request of Mr. POMBO and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. Mr. Chairman, we can have the endangered species protected and the people protected. I want to keep stressing that. We have heard people talk about my wanting to repeal the Endangered Species Act. I never attempted to repeal the Endangered Species Act.

I had 17 hearings with the gentleman from California [Mr. POMBO], and we had hundreds of witnesses testify before us that the system is not working, and I want to fix it. I want to protect the endangered species, but I want to also have man's involvement in the protection of the endangered species. I do not want to join the SSS's club. I don't want to belong to that club. Some Members want to shoot, shut up, and shovel. I do not want anything to do with that. What I want is protecting the species, and the act today is not working.

I asked the gentleman from California and this administration, Mr. Babbitt and Katie McKinney and the President, to come down and give me

some suggestions. They did not do that last year. They sat quietly and beat our brains out because we tried to improve the act. They said we tried to repeal it. We did not do that. We tried to improve it, and it should be improved.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has again expired.

(On request of Mr. MILLER of California and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I tried to make the point in general debate, and as the gentleman knows, we have levee failures in our State and we have had them across the country, and there is very little or sketchy evidence, in my opinion, that says it is due to ESA.

But also, the Corps of Engineers in fact requires annual maintenance of the levees that includes mowing, burning, vegetation removal, filling in of burrow sites; all of the things the gentleman and I associate in the Sacramento Delta with that.

Mr. YOUNG of Alaska. Reclaiming my time, Mr. Chairman, only if it is in consultation with the Fish and Wildlife, and they agree to it.

Mr. MILLER of California. This is an annual requirement of the maintenance of the levee by the Corps. Fish and Wildlife signs on.

Mr. YOUNG of Alaska. If it is a federally controlled levee. If it is a district, such as in the Sutter Basin, if that is under district control then Fish and Wildlife can only give them the authority, and they do not have that authority. That is what happened out in the Yuba County area. They would never give them the right to do that.

Mr. MILLER of California. That is not the case, if the gentleman will continue to yield, Mr. Chairman. Both in the Chowchilla River and in the San Joaquin there were perfectly annually maintained levees that failed because instead of 8,000 cubic feet, Yuba was more, and that was not about maintenance.

Mr. YOUNG of Alaska. Reclaiming my time, we cannot say there will never be another flood, I will not say that, but it is ridiculous to allow a flood because we were supposedly protecting the habitat of the elderberry beetle, which they have never seen, by the way. This is the greatest thing in the world. They were protecting the habitat, the elderberry bush, when the levee went out. Guess what, this took the elderberry bush. So what have we accomplished, besides losing 3 lives and millions of dollars? Why cannot we take those few dollars we have left in the Treasury and address that problem?

Mr. Chairman, I am just suggesting what we have to do is vote down the Boehlert amendment. Very frankly, it is ill-conceived. It is an attempt to gut the bill. I understand where the gentleman is coming from. But the bill as written by the gentlemen from California, Mr. WALLY HERGER and Mr. POMBO, as it came out of the committee is a bill that will solve the problem.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is appropriate, as we discuss this amendment, to consider what is happening in California as repairs to levees are proposed. We heard the testimony of flood managers and levee managers from California before this bill was passed through our committee. I want to give an example of what happened, as the chairman of our committee just alluded to.

A repair was requested to a project in California on the west bank of the Mokelumna River that would involve approximately .37 of an acre, one-third of an acre. This is what the Interior Department required in a letter of instruction to those wanting to repair the levee.

First, they would have to find every single elderberry bush in that one-third of an acre and transplant it. They would have to transplant it to an acreage five times as big. They would have to plant new elderberry bushes, five times as many as they transplanted from the old site. In addition, biologists had to be on site to monitor the transplanting of these elderberry bushes.

Second, they had to provide to a resource agency or a private conservation organization fee title. They had to buy the land and give it to this organization to maintain these elderberry bushes. It had to be maintained, and money had to be provided to maintain it in perpetuity. Understand, the levee may not be maintained in perpetuity, but the elderberry bushes will be.

Third, the qualified biologists had to be on site managing everything that was done. There had to be written documentation that all conditions would be carried out in perpetuity. There had to be an annual assessment of the facility to mechanically pull out any weeds. Biologists and law enforcement agencies had to have full access to the project at all times to monitor it. Permanent fencing had to go up.

Every five elderberry seedlings had to have two other types of species planted next to it, because apparently the beetles like other species. Every year for a period of 10 years, qualified biologists had to come in, assess the elderberry bushes, and make reports. Maps showing where every individual adult beetle was and the exit holes that were observed in each elderberry

plant had to be analyzed, the survival rates of the plants and the beetles had to be reported on. Get this, the on-site personnel, who were supposed to be repairing the levee, had to go to school for instructions regarding the presence of elderberry beetles. They had to go to beetle school.

Mr. Chairman, all of this was done for one-third of an acre. I have showed Members the large book. The bill we are debating today does not say you cannot protect these beetles. It does not say you cannot have sites to put elderberry bushes and raise beetles on if you want to do that. It simply says that the money that was to be spent on this one-third acre to construct the repairs to this levee should be spent to repair this levee, and not to do this beetle protection program.

It simply says that when this levee was in dire need of repair, we should have done it. We should have done it on time. We should have saved those five lives that were lost in California because levees like this failed. It says that across America we ought to recognize that the good environmental things we do to protect beetles are fine, and we ought to find the money and fund it to do that if they are important to us, but we ought not to take it out of funds necessary to repair bridges and levees.

The Boehlert amendment says, in effect, that this California system ought to be the system we use across America.

□ 1630

In Louisiana, when the Mississippi levee, as it is in north Louisiana, is 6 feet too short, we are in serious trouble and we have to do a mitigation program, too, like the California program. Unless the flood is imminent and we are about to be flooded, the Boehlert amendment gives us no relief. In fact, the Boehlert amendment says if we do not build the repairs before a certain date, forget it; we still have to go through the beetle program of California.

The Boehlert amendment says, in effect, that in Louisiana and every State, we are going to get letters like this compelling our levee managers to do what they had to do in California. The Boehlert amendment says that we are going to see loss of lives in our State like we saw in California.

We maintain levees all over my State. Levee managers try to do a good job. When the Federal Government contributes a dime to that levee construction, when it contributes one dime, it requires the State manager of the levee or the local manager to assume full liability if the levee fails.

Here is the situation. The Federal Government says: You are fully liable if the levee fails; but, by the way, if you try to fix it, we are going to put you in a beetle protection program instead, and you cannot fix the levee.

When it fails and people flood and lives are lost, it is on your nickel; it is your responsibility.

The Boehlert amendment, Mr. Chairman, is a phoney solution. If we want to solve this problem, if we want to make sure that in Louisiana and every State we fix levees, then we need to vote for the Pombo bill.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Boehlert amendment and for H.R. 478, the Pombo bill. Let me say first of all that I am as committed as any other American in this country to preserving clean air and water and to preserving wildlife across this Nation. But this debate is not about preserving wildlife and saving species in this country. What we do is we stand here today, 25 years after the Endangered Species Act was enacted, trying to figure out how we got to this position in the first place. The authors of that law never intended for us to have this battle today. What we are standing here talking about is groups that are way out there on the fringe who have figured out a way to use this law to now impose power, their personal agenda over communities across this country.

Do we think for one second that they care about these beetles or these bugs or these snails or these creatures all across the country that in many cases are just used in court documents and have never even been seen by the groups that are pushing to try to save these species? That is not what this is about. This is about power.

If I could engage the gentleman from California [Mr. POMBO] in a colloquy for just a second, let me just show another instance of how we have gotten out of control. Is it true that there is a fly that is classified as a maggot in California that is on the endangered species list and then caused a delay of construction of a hospital that a community needed?

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, yes; that is correct. It was in southern California. It was a fly that was listed as endangered, and the result of that was that we had a hospital delayed because of that.

Mr. BONILLA. It cost millions of dollars, if I am correct.

Mr. POMBO. Mr. Chairman, it was several hundred thousand dollars per fly.

Mr. BONILLA. The groups that are in favor of spending this money and delaying a hospital that a community needed were quoted in an article in the Washington Post as saying that this maggot is actually a national treasure and was worth spending this money on. Is the gentleman aware of that?

Mr. POMBO. Mr. Chairman, I am aware of that. I did see the article that they considered it a national treasure and that it was worth delaying the opening of a hospital for several months and the spending of several hundred thousand dollars per fly by the taxpayers of Riverside County.

Mr. BONILLA. Mr. Chairman, there was a quote that said, it is a "fly you can love."

The point I am making here is that the folks that oppose the gentleman's bill and oppose what we are trying to do here are the same folks that are quoted as saying this maggot is a fly we could love and do not care how it affects the community at hand. That is the point I am trying to make.

Mr. POMBO. Mr. Chairman, if the gentleman will continue to yield, I think that the point is they are opposed to any change in the Endangered Species Act regardless of how good a cause it is.

Mr. BONILLA. Now, what we have had is, we have had people lose their lives in California. When is it going to stop? What we are talking about here is human life. We are talking about human rights. In many cases, these folks who are thinking maybe somewhere in the cosmos up there that perhaps these bugs and beetles and snails are more important. I frankly do not understand how someone can think like that. What we are talking about here today is we are either standing with us for human rights and human life or we are standing with the bugs and the slugs and the scrubs. Get real.

Mr. SAXTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a difficult situation because I believe that the goals of the bipartisan coalition that supports the Boehlert amendment and the goals of the gentleman from California [Mr. CAMPBELL] and the goals of the gentleman from California [Mr. HERGER] and the gentleman from California [Mr. POMBO] are all the same. But what makes this difficult is that there are two approaches, one which is reasonable and can become law, and the other which is somewhat less reasonable and in my opinion cannot become law.

Why is it that it cannot become law? It is really pretty simple if we know the process in Washington, DC. We have received, for example, strong vibes, strong statements from the administration that it will not become law with the Herger-Pombo language even as amended by the gentleman from California [Mr. CAMPBELL].

So this is an exercise in futility and in fact I will not yield at this time. And so why we would send a bill out of this House escapes any rational explanation that I can think of.

Second, if we send this bill to the Senate, which I do not think we will do

unamended, if we send this bill to the Senate, I know some Senators and I know Members of both parties in the other House that will not vote for the Pombo-Herger language either. And as we all know, the Senate requires 60 votes in order to get cloture and to come to a vote on final passage. I do not think there are anywhere near 60 votes in the other House for the Pombo-Herger language. And as a matter of fact, I can count votes pretty well in this House, too. And I do not think the Pombo-Herger language with the Campbell amendment is going to pass in this House either.

So as the accusations have kind of flown back and forth between the bipartisan coalition and those who would like to have it the other way, I think everybody should keep in mind that we both have the same goal and that there is one proposal that can make it to meet that goal, and that happens to be embodied in the Boehlert amendment.

Why can Pombo-Herger become law? Well, it is being advertised as a very narrow bill, which with regard to flood concerns, the bill basically makes significant changes in ESA in the areas under consideration, which are levees. I think it is important for us to recall that most endangered species live along waterways. And so the very criteria that ESA tries to protect are being directly and adversely affected in large numbers by the Herger bill. The bill would exempt further from ESA consideration specifically from the requirements to consult with the Fish and Wildlife Service and the takings prohibition any activities related to any existing flood control project.

I must add at this point that I disagree with the gentleman from California [Mr. CAMPBELL], my friend. The reason we accepted his language is because we think it does not change the Pombo-Herger bill at all. The reason for that is that the language that the gentleman from California [Mr. CAMPBELL], my friend, has included is quite specific and is added to the language of the Pombo bill and the language that is added to talks about the routine operation, maintenance, rehabilitation, repair or replacement of Federal or non-Federal flood control projects. And here is the new language: where necessary to protect human life or to prevent the substantial risk of serious property damage.

Why are levees built? Why do they exist in the first place? To protect human life or to prevent substantial property damage.

So the language that was added to the Herger bill simply states again what the purpose of the levee system is and I do not think does anything to change the original intent at all and continues, therefore, to have the Herger language applied to the entire flood control system in our country as we know it.

In addition to that, the law applies, the Herger language applies regardless of whether this is any conceivable threat to the public. This would prevent any project reviewed to prevent damage to existing listed species, and it would make it virtually impossible to protect new species.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. SAXTON] has expired.

(By unanimous consent, Mr. SAXTON was allowed to proceed for 2 additional minutes.)

Mr. SAXTON. Mr. Chairman, those are the basic reasons that Secretary Babbitt has indicated some disagreement with this bill. That is the basic reason that I think the President will veto the bill. Those are the basic reasons that I think the Senate will not pass the bill. And those are the basic reasons why I think the bill unamended by BOEHLERT will fail here today.

Now, the Boehlert amendment, on the other hand, will be targeted at what Pombo and Herger claim correctly that their complaint is that ESA prevents vital repairs to levees and other flood control projects, and we agree. We think relief is needed. We believe that our amendment, therefore, will exempt the repair of flood control projects from the consultation requirements of ESA all across the country, not just in California. It applies to both disaster areas and to any place where a project poses an imminent threat to human life or property and, as I said, it applies nationwide.

So this amendment, this bill as amended by the gentleman from New York [Mr. BOEHLERT] can become law. It goes to accomplish the purposes of the gentleman from California [Mr. HERGER] and the gentleman from California [Mr. POMBO]. I believe that we should vote for it on a bipartisan basis. I think we should get behind it wholeheartedly and pass this amendment so that we can have a bill that becomes law.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. SAXTON] has again expired.

(On request of Mr. CAMPBELL, and by unanimous consent, Mr. SAXTON was allowed to proceed for 2 additional minutes.)

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, there were two points I would like the gentleman to give a very candid, honest answer to. First of all, is it the gentleman's understanding that the President's veto threat applies to Herger-Pombo even as amended by Campbell.

Mr. SAXTON. Mr. Chairman, I do not believe that the gentleman's well-intended amendment changes the bill at all and, therefore, I believe the President's veto threat remains in effect.

Mr. CAMPBELL. Mr. Chairman, if the gentleman will continue to yield, I am going to ask him a slightly different way. Is the gentleman's understanding of a veto threat expressed by the White House after the White House was informed of the existence of the Campbell amendment?

Mr. SAXTON. Mr. Chairman, it is my opinion that the White House believes, as I do, that the well-intended language of the gentleman from California does not change the bill at all in terms of its practical application to the entire flood control system as we know it in this country and, therefore, it is my opinion, I have not talked to the White House about this, but it is my opinion that the veto threat remains.

Mr. CAMPBELL. Mr. Chairman, has the gentleman talked to the White House or any spokesperson for the White House since the Campbell amendment became known?

Mr. SAXTON. Mr. Chairman, if I may reclaim my time for a moment, before I respond, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I think the gentleman makes a very important point because under the Pombo legislation as amended by Campbell, the threshold that is required is the ordinary threshold we use for any public works project and any maintenance of any public works project, because that is always the rationale for the expenditure of the public moneys.

So we still have the position where we could get into extensive maintenance which could include flushing out the bottom of Shasta Dam and destroying downstream habitat. You could get into massive rehabilitation of levees. You could move levees from 50-year protection to 100-year protection.

So the Campbell amendment simply does not do anything to mitigate the concerns that the White House and many of us have about this legislation, because it is such a low standard. It is the same standard we use for any public works project.

So I think the gentleman makes a very good point, that if we want to take care of this problem and we want to take care of it on a timely basis and we want to respond to these people who have, who have been flooded out and those who may be in the future, the Boehlert-Fazio approach is the only one that is going to get us there.

I thank the gentleman for his remarks.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this bill and in support of the Boehlert-Fazio amendment.

This measure's portrayal after the floods, the basic underlying measure is misleading and inaccurate and is an attempt to misuse the tragic loss of human life as a basis for a wholesale

retreat from the Endangered Species Act.

□ 1645

I would ask those who would disagree with me to simply look at the facts. I sat in the hearing, I heard some of the panels of witnesses, and the Endangered Species Act had, in the final analysis, nothing to do with causing the floods in California and the upper Midwest.

Anecdotal explanations will not do for this debate. According to the preliminary report of California Governor Wilson's flood emergency team, unprecedented water flows were simply too much for that channel. Designed capacities and sustained high flows saturated and further weakened levees. In fact, as the gentleman from California, the ranking member, Mr. MILLER, has pointed out, 10 times the flow capacity.

When one adds to this fact that these levees had silty and sandy soil beneath a top layer of clay, the claims that the ESA or fauna or flora protection are somehow to blame for that, this is clearly the result of a catastrophic act of God and even becomes more ridiculous in considering it.

Blaming the floods of 1997 on the Endangered Species Act would have been like Noah blaming the great flood on the animals he brought with him on the ark. It just does not make sense. It does not add up.

What is evident is the design and intent of some special interests to exploit these human tragedies as a basis and a scapegoating of the Endangered Species Act. This is incredible, it is not fair, and it is not the way we should make decisions or laws.

So why are we here today? We are debating this when there are thousands of flood victims working to rebuild their homes and their lives in the wake of these horribly destructive natural events this year.

Mr. Chairman, the Boehlert-Fazio amendment provides us the opportunity to repair the flood damage that has occurred. I submit that that will carry the day. What we need, of course, is action on that. We need to get the supplemental bill passed. And the fact is that some are trying to use this as a basis to write this measure into law.

Frankly, I thought we were through and had passed the dark shadow of some of the problems in the last session for the last few years that have persisted in the Congress but, apparently, this is yet not the case. Are we to suspend every law and regulation that affects or impacts the construction of water projects? Are we so concerned about the nourishment of beaches that the Endangered Species Act, the National Environmental Protection Act, Coastal Zone Protection, all of that should be disregarded because it represents somehow a qualification or encumbrance on that particular activity? I think not.

I think that this effort is wrong. I think the Boehlert-Fazio amendment is a well-tailored amendment to address the major issue that we have before us. I would hope that this Congress would act positively on that amendment and respond to what is necessary.

This legislation, the underlying legislation, virtually suspends almost all water projects and activities, from dredging, as I said, the channel nourishment, from the law. This would affect almost every district, as some have said, in the country because most of us have some water projects of a sort in our area.

The law actually can work and does work smoothly. From time to time we do run into issues where there are threatened or endangered species, but the type of requirements that were outlined here as an example of redtape, simply do not hold up in most of the jurisdictions that we represent.

This is an important law, along with the other laws that we have to protect clean water, to deal with the issues that arise when water projects and activities go on. It is wrong to scapegoat, as I said, one law in this instance, and I think that the motives and the effect of this is negative and reflects badly on this Congress and body in terms of dealing with facts rather than anecdotal stories.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding to me, and I think he raises a very important point.

If we want to scapegoat the Endangered Species Act, we can, but the mounting evidence is, in these floods, that the Endangered Species Act was a nonfactor. In central California we had 10 times the amount of water come through the river channel than the levees were designed to hold. We had somewhere between 70 and 80,000 cubic feet per second in a channel that was designed for 8,000 cubic feet per second.

Further north in the Yuba City area we had the failure of a levee. We had the failure of a levee in the area of where maintenance was talked about. But the fact of the matter is, over the last decade the Fish and Wildlife Service has signed off on a number of plans.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. VENTO] has expired.

(On request of Mr. MILLER of California, and by unanimous consent, Mr. VENTO was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman continue to yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, what happened was the local

levee agency, the local flood control agency kept coming back to the Corps and making additions to the levees. Change orders.

Those of us who know about military expenditures know the cost goes up because of change orders. They kept changing the design, and in this case the levee. The costs kept going up. They had to come back through budget cycles to get the money. Then the person who lost an open bid to do the work sued, saying the process was illegal, held the bid up and delayed the project. Had nothing to do with the Fish and Wildlife Service and ESA. The fact is they signed off on all these changes on all these projects.

So we can scapegoat the ESA, and people can come down here, and we saw a little while ago in the well, and we can rail against the slugs and bugs and we can rail against the ESA. I would suggest that, for the most part, that is the genesis of this bill.

If we look at the people who are supporting this legislation, they are the same people that supported this legislation in our committee, if the gentleman will remember, that basically just gutted the Endangered Species. They said we can save the species but we could not save the habitat. Hello? Where are the species supposed to go?

So we have the same coalition. We can rail against it and feel good, and we can try to tell our constituents that this levee failed and that levee failed because of the Endangered Species. The gentlemen from Louisiana were up here talking about how they maintain their levees and how they have to dump water into their lake. They are doing that today. They are doing that today.

There is nothing in the Boehlert amendment that requires the California mitigation plan. These are scare tactics. These are simply scare tactics, and the gentleman from Minnesota is making a very good point; that we ought to make this based upon the evidence and the information available. And the evidence and the information available simply does not add up that we should be blowing a hole through the Endangered Species Act with this legislation.

And make no mistake about it, that is what part B of this legislation does, it blows it right out of existence with respect to all of the activities in large, integrated flood control and western water projects. They simply escape their liabilities.

Mr. VENTO. Mr. Chairman, reclaiming my time, I appreciate the gentleman's observations.

I would just point out also that the underlying legislation here is permanent. It is a permanent change in terms of the Endangered Species Act as applies to water projects, which I might add, to my colleagues, is not a small activity that goes on in this country in terms of the amount of dol-

lars. It is an important activity, one that is vital, but it has to be done and channeled.

I would say more often than not that those environmental requirements, including the Endangered Species Act, are the best money we can spend. They are the best money because they have held accountable this Congress from the type of wasteful projects that are repeatedly brought to this floor. So I do not think the environmental laws of this Nation, including the Environmental Protection Act and the others, if anything, they have limited the type of wasteful spending in project after project.

And if it does not work perfectly, let us improve it. Let us not permanently exempt all these projects. Let us adopt the Boehlert and Fazio substitute, which is a temporary fix and something that needs to be addressed.

Mr. SHADEGG. Mr. Chairman, I move to strike the requisite number of words, and I rise to join this debate and speak very strongly in favor of H.R. 478, as amended by the Campbell amendment, which has been accepted, and to speak very strongly in opposition to the Boehlert amendment.

Let me explain my reasoning. We heard a lot of discussion about anecdotal information. I think it is important to focus on the language and the problem that is before us. Let me begin first with the language of the Boehlert amendment and make an argument and make a suggestion for why I think it does not do what is essential at this moment in time.

The Boehlert language says that we could waive the essential requirements only when there is an imminent threat to human lives and property. The key word is "imminent" threat. I suggest we look at those words.

I went to Webster's International Collegiate Dictionary and looked up the word imminent. The word imminent is defined. Two definitions. The first: "Ready to take place." And the second, "Hanging threateningly over one's head."

What that means, Mr. Chairman, is that we would have to wait until the threat was hanging threateningly over our head. We could not do the necessary maintenance until the flood waters were headed our way. That is a serious problem with that language, and let me illustrate that.

In my State of Arizona we do not have waters that rise slowly over a period of days. We do not have waters that rise over a period of weeks. We have flash floods, flash floods that occur in an instant, flash floods that come up within a matter of hours and rise instantaneously.

This language would make it virtually impossible. We cannot predict a summer thunderstorm. We cannot predict the quantity of water that it is going to dump. We cannot predict it in

advance. But under the Boehlert language, since we would have to wait until that threat was hanging threateningly over our head, we would be essentially precluded from doing the necessary maintenance.

Now, let us look by contrast at what has been accomplished with the Campbell amendment to the original Pombo bill. I think it offers ample protection, ample protection for anyone concerned. And why? Why does it go beyond the argument of my friend, the gentleman from New Jersey [Mr. SAXTON], that it does not add anything in the bill? Where is he wrong in that?

Let us look again at the language. The language says that the exemption would apply only where necessary to protect human life or where necessary to prevent substantial risk of serious property damage.

Well, let us go back to the words that are being used. First, it is where necessary. It is not where it would be reasonable for the protection of human life. It is not where it would be good for the protection of human life. It is not limited to where it would be helpful for protection of human life. It does not even apply if it is desirable for the protection of human life. It says, instead, where it is necessary for the protection of human life or necessary to prevent a substantial risk of serious property damage.

Again, let us look at the words and go to the dictionary definition. I pull out Webster's New Collegiate Dictionary and once again the definition of necessary is: "An indispensable item or essential."

We are not talking about just casual need or desire or reasonable or good or helpful. We are talking about where it is essential to protect human life or essential to prevent the substantial risk of serious property damage. That is what we are talking about.

This is not a waiver, a blanket waiver any time anyone feels like it. And as one of my colleagues on the other side pointed out quite early, these issues get litigated. In this case, the litigation will focus on this question: Does someone just want to do this levee work? That does not cut it. Is it good to do this levee work? That would not qualify under the law. If it would be helpful to do the work involved, that does not meet the standard. If it would be desirable to do this kind of maintenance work to protect human life or to avoid a substantial risk of property damage, that does not meet the test.

It is defined, as amended by the amendment of the gentleman from California [Mr. CAMPBELL], as necessary. Understand what necessary means. Necessary means essential or indispensable. That affords the protection which the other side refuses to recognize.

Now, perhaps the arguments on the other side were framed before the

Campbell language came forward. Perhaps we discussed the threat of a veto before the President knew of the language. But I suggest to my colleagues that this language does do what is necessary to enable us to prevent and to protect against potential flood damage but not to wait until the waters are literally rising. And in my State of Arizona, that is a condition which cannot be met because of the flash flood conditions we face.

Mr. Chairman, I urge my colleagues to support the bill, as amended by the gentleman from California, and to oppose the Boehlert amendment.

AMENDMENT OFFERED BY MR. DICKS TO AMENDMENT NO. 1 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BOEHLERT

Mr. DICKS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DICKS to amendment No. 1 in the nature of a substitute offered by Mr. BOEHLERT:

On page 2, line 15, strike "an imminent" and insert in lieu thereof "a substantial".

Mr. POMBO. Mr. Chairman, at this time, I reserve a point of order against the amendment.

The CHAIRMAN. The point of order is reserved.

The gentleman from Washington [Mr. DICKS] is recognized for 5 minutes on his amendment.

Mr. DICKS. Mr. Chairman, I rise to offer this amendment because I agree with the gentleman from Arizona, and I think the words "a substantial threat" are better for us here than an "imminent threat" for many of the reasons he described. I think it will allow earlier action.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I think the gentleman's amendment provides necessary clarifying language, and I am willing to accept that. I think it is constructive, and I thank the gentleman very much.

Mr. DICKS. Mr. Chairman, I ask for a vote on the amendment.

□ 1700

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. POMBO. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentleman withdraws the point of order.

The question is on the amendment offered by the gentleman from Washington [Mr. DICKS] to the amendment in the nature of a substitute offered by the gentleman from New York [Mr. BOEHLERT].

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. CALVERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 478 introduced by my friends, the gentleman from California [Mr. HERGER] and the gentleman from California [Mr. POMBO], and in opposition to the Boehlert substitute.

In January 1993 in my district, in the Temecula-Murrieta area of California, over \$10 million worth of damage occurred in the old town area of Temecula and Murrieta when the Murrieta Creek overflowed its banks. It is not a theory, it is not my imagination. I was there, I saw it happen.

Interestingly enough, the county of Riverside, the county flood control agency, had for months if not years attempted to get permission from the Federal authorities to do necessary repairs and cleaning out of that Murrieta Creek bottom. They were unable to get those permits. Because of that, that damage occurred. Furthermore, there was so much debris within that creek bottom, it went on down through Murrieta Creek and joined into the Santa Margarita Creek and went on through that area, and there was so much debris, it created an artificial dike for a while while the water accumulated behind it. Eventually that broke, and the water went through and hit the dike that protects the helicopters at Camp Pendleton in California. That dike broke, and that water cascaded without any warning on to the military base and I believe approximately \$75 million worth of helicopters were destroyed because of that.

We could have solved that problem. This was absolutely solvable. All we had to do was just clean out that river bottom. We were unable to do it. Fortunately since then we have been able to clean out the river bottom. We have been able to do that but unfortunately with a lot of effort. Just this last year we tried to clean it out, up until just a couple of weeks before the rainy season began, we still had a very difficult time getting the necessary permits to keep it cleared out. I have had a lot of disasters in my county. I am the same county, of course, that had the problem with the fire breaks and the inadequacy of the fire breaks and the Winchester fires in the same year which destroyed many homes of folks that could have been protected if fire breaks had been allowed. This bill does not address that. I would like to get into that somewhere down the road. But it does address necessary protection to flood control channels which protect life and property. If we cannot protect life and property and be Members of this Congress, I do not know what we can do.

Please support the gentleman from California [Mr. HERGER], the gentleman from California [Mr. POMBO] and oppose the gentleman from New York [Mr. BOEHLERT] and let us move forward with this.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York.

I have listened to the debate with a great deal of interest this afternoon. I have heard my colleagues who offer the legislation talk about the intention of the original authors of the Endangered Species Act. They were right. They said we did not want to prevent people from protecting their homes and avoiding calamities and taking steps necessary to repair after.

I have also listened to my colleagues on the side who are pushing the amendment offered by my good friend, the gentleman from New York [Mr. BOEHLERT]. They have said that the purpose of the original Endangered Species Act was to see to it that we protected precious species from being extinguished by the hand of man. Both are right. I think it is good that we should take steps to protect endangered species from being extinguished. I think it is also right that we should protect people. That leaves us a choice between the amendment offered by the gentleman from New York and the original piece of legislation. Interestingly enough at the time that the legislation was written, I was the chairman of the subcommittee. In fact, I was the author of the legislation. I thought it was good legislation then, and I still think it is good legislation. The distinguished gentleman from Alaska, if I recall correctly, was a member of the committee at the time we wrote that legislation. He is now chairman of the Committee on Resources, and I am delighted to see that because he is a fine chairman and a dear friend of mine. But I would observe to my colleagues that in choosing between the extinction and the extermination of species and the protection of human life, the choice here really is quite simple. That is, to adopt the amendment which was wisely and prudently offered by the gentleman from New York [Mr. BOEHLERT] and to reject the basic language of the bill, because the basic language of the bill does not just protect human life, it gives an absolute absolution, it gives an immunity bath to the wiping out of any species in connection with the construction, reconstruction, amendment, repair, or other things of some kind of a flood control project. It goes as far as drains and dams and it goes as far as fishways and protection of fishways. It goes even to things like beach erosion. I am not sure that that is necessary for the protection of human life. It allows anything to be done without any consultation or anything else. The Boehlert amendment says that if there is substantial danger to human life, all those things are waived. Substantial danger. We have just changed it to deal with the concerns that were expressed about imminent.

The bill also affords reasonable time limitations in terms of how long this

will go. The Committee on Resources is not going to close up its business tomorrow. It is going to be here. They will have oversight and look at the way that this legislation should be conducted and I think that is the way the Congress should function, and I commend the committee for what it is it does. The legislation they have brought before us is not good legislation. The legislation as amended by the amendment offered by the gentleman from New York would be good legislation. It would be legislation of which we could be proud. It would carry out the two purposes of the debate today. First, the protection of endangered species. If some of the proponents of this amendment would really like to talk to me about what they really have in mind, I would like them to tell me why we ought to wipe out species that are precious in terms of the gene pool, or that lend unique and rare quality to the life that we all enjoy in this world of ours. Or why it would be useful for us to sacrifice those kinds of species when there might be some future importance to them, to human beings going even beyond the simple knowledge that that species might be there.

Let us talk about doing something and doing something quickly. The amendment offered by the gentleman from New York [Mr. BOEHLERT] makes it possible for us to have immediate relief. This legislation will whistle through the House if that amendment is adopted and it will whistle through the Senate because both bodies are looking for something to do. It also will be signed by the President.

Now, the alternative is the adoption of the bill as it is laid before us, an immunity bath for any misbehavior under the Endangered Species Act which would relate to flood control projects. The President is not going to sign the bill as it now is. And so all of us are going to go home and we can tell our constituents about the wonderful speeches we made about how we were protecting people from floods. But the real answer is, if Members really want to protect people from floods, if we really want to do a wise and careful job of legislating, if we really want to protect endangered species and if we want to protect people, if we want to deal with the problems of floods and repairs and to do it responsibly and thoughtfully, adopt the amendment that is offered by the gentleman from New York and reject the bill as it is now drawn.

Mr. HERGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Boehlert amendment and in support of H.R. 478. I want to make perfectly clear what is at stake with maintaining and repairing flood control structures across the United States. In 1986, California was hit with what was up to that time the worst

flooding in recorded history. This photo shows an example of the devastation. Members can see how the water in Linda in northern California in my district was up to the bottom of the road signs. In that disaster, 13 lives were lost and more than \$400 million worth of damage was caused. After this tragic flood, the Army Corps of Engineers spent 4 years to study what levees needed to be repaired. Under the Boehlert substitute, the deadline would have been surpassed because the Boehlert substitute limits the time in which flood control experts can repair the levees to only 1½ years. Our Nation would in fact be worse off under the Boehlert substitute than under existing law which does not limit the window for making repairs nor does it require after-the-fact mitigation. Even if the repairs could be accomplished within the time limit, the Boehlert amendment would still require local communities to pay for costly environmental mitigation after the levee was repaired. The Boehlert substitute makes national law a policy that requires local officials to play Russian roulette with limited tax dollars by forcing them to choose between making necessary repairs or facing undetermined mitigation costs. It writes a blank check for the Fish and Wildlife Service to charge local communities whatever they want in mitigation costs. This is clearly another major unfunded mandate. But by far the worst part of the Boehlert substitute is that it does nothing to prevent flood disasters from occurring in the first place. The Boehlert substitute would only allow flood control structures to be repaired after a catastrophe occurs, only after lives have been lost, and only after the loss of wildlife that the ESA is supposed to protect. Why should a law prevent the repair of a flood control structure only to have that structure give way and take lives and devastate wildlife?

Mr. Chairman, the Boehlert substitute simply defies common sense. Under H.R. 478, flood ravaged areas around the Nation could find comfort in knowing that they will have the regulatory relief necessary to do everything in their power to prevent flooding. When a levee, like this one in this photo, broke in my district on the Feather River on January 2, 1997, three people were drowned. Claire Royal, a 75-year-old retired elementary school teacher, was found drowned near her car in which she had been attempting to flee the flood waters. Marian Anderson, a 55-year-old mother of 10, was found drowned near her car in which she had been attempting to flee the flood waters. Bill Nakagawa, an 81-year-old World War II veteran who served with the famed and distinguished Japanese-American 442d Combat Team, was found drowned in his home a quarter mile away from the broken levee.

Ask yourselves this: Would Claire Royal, Marian Anderson, and Bill Nakagawa, been better off under the Boehlert amendment that only allows repairs after the disaster has hit, or would they have been better off under our legislation, H.R. 478, that allows flood control officials like Mrs. Anderson's husband, the manager of the broken levee, to make the repairs while the sun is shining and the high waters are not present?

Mr. Chairman, the Boehlert substitute is worse than current law and does nothing to protect communities from future devastation from floods. I urge my colleagues to vote "no" on the Boehlert substitute and "yes" on final passage of H.R. 478.

The CHAIRMAN. The time of the gentleman from California [Mr. HERGER] has expired.

(On request of Mr. DICKS, and by unanimous consent, Mr. HERGER was allowed to proceed for 3 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I think the gentleman will be happy to know that we take care of his primary concerns.

First of all my amendment does not deal with only after. We deal with prior to. We have made an adjustment as a result of the Dicks amendment to mine which I accepted. So if there is a substantial threat, we can do the repair work prior to. That is very important.

□ 1715

Mr. HERGER. Mr. Chairman, reclaiming my time, let me ask the gentleman, is their not a 1½ year time limit on his bill? Does his bill not expire on December 31, 1998? Yes or no?

Mr. BOEHLERT. If the gentleman will yield, no. The answer is "no."

Mr. HERGER. It is not written into the bill that it expires?

Mr. BOEHLERT. If the gentleman will yield, I would be glad to respond to the question.

Mr. HERGER. Yes.

Mr. BOEHLERT. Mr. Chairman, what we do is 1998 is the time, and we do this for a very logical reason. What this Congress too often does is passes sweeping legislation for time immemorial. We want to try this as a pilot project. We think our colleague has a good idea; we want to assist him.

Mr. HERGER. Let me reclaim my time. Could the gentleman from New York be specific on when it expires in his legislation?

Mr. BOEHLERT. Sure; the end of calendar year 1998, a pilot program to see how it works.

Mr. HERGER. OK; that is what I thought. I reclaim my time.

It ends on the end of calendar year 1998. That is 1½ years from the day.

That does nothing to help future floods. And I might mention this study that was done was asked for in 1986 after another flood there, which I am sure the gentleman from New York may have fought us doing something about then. We did a study that determined the levee that broke where Mrs. Anderson was drowned, the Corps of Engineers in 1990 said that there will be a loss of life unless this levee is repaired. For 6 years the Corps of Engineers jumped through hoops trying to mitigate for an elderberry plant, and, no I will not—tried to mitigate for this.

This is serious. We had three people drown in our district because of those who have taken over the environmental movement, and it will not even allow for simple commonsense legislation that puts people, puts people ahead of endangered species. All we are talking about is repairing levees.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, there is some obligation to go to the accuracy of the remarks he is saying. There is no limitation on debate.

The CHAIRMAN. The time of the gentleman from California [Mr. HERGER] has again expired.

(On request of Mr. MILLER of California, and by unanimous consent, Mr. HERGER was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, the gentleman suggested somehow that the Endangered Species Act prevents these projects from going forward.

Mr. HERGER. That is correct, because it does.

Mr. MILLER of California. I mean the gentleman can stand up in the well and say whatever he wants, but he has some obligation to be accurate. But the fact of the matter is it is a water resources act, so if the gentleman from California does what he wants to do, it requires that mitigation be temporary, not the Endangered Species Act.

The gentleman says the amendment offered by the gentleman from New York [Mr. BOEHLERT] would have prevented the report from going forth; there is nothing in the amendment that prevents the report from going forward. And the gentleman says it would be worse than existing law, and the fact is what he does is waive the provisions of existing law requiring consultation.

So the gentleman can get up here and rail against the Endangered Species Act. We have some obligation to be accurate in terms of the facts we present to the House.

Mr. HERGER. The fact is, and I will reclaim my time, the fact is that the gentleman from New York [Mr. BOEHLERT] stated in a question I asked him that his legislation sunsets on December 31, 1998. That is 1½—I have the time—this is very serious. We have lost three of my constituents in this levee break because of an Endangered Species Act that for 6 years kept mitigating for an elderberry plant and put a plant—Mr. Chairman, I have the time—that mitigated for 6 years, spent \$9 million on a repair that would have only cost \$3 million that finally, after jumping through 6 years of hoops, this repair was due to be done this summer.

Guess what? It was about 6 months, too late for the lives of three Americans and constituents of mine.

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, is the gentleman aware of any maintenance activities in his district that were delayed because of mitigation, the implementation of the Endangered Species Act?

Mr. HERGER. I am aware of a number in my district that are delayed, and specifically the one that I have related to not only was delayed but it was delayed from 1990 until the summer, which has not come yet, of 1997, and prior to that time after 6 years the levee broke.

The CHAIRMAN. The time of the gentleman from California [Mr. HERGER] has again expired.

Mr. POMBO. Mr. Chairman, I ask unanimous consent the gentleman be given an additional 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DICKS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FORBES. Mr. Chairman, I move to strike the requisite number of words.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. FORBES. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I just want to say to the gentleman from California [Mr. HERGER], and I understand his concern and it is legitimate, had the Boehlert language been in effect we would not have had that 6-year delay that he refers to. The fact of the matter is our substitute amendment is designed to take care of those situations. We want to prevent them from happening in the future.

Mr. FORBES. Mr. Chairman, I rise today in strong support of the substitute amendment offered by the chairman of the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure, the gentleman from New York [Mr. BOEHLERT].

Before us we have an amendment that strikes the requisite balance between providing for the timely repairs to our Nation's flood control infrastructure and protecting valuable endangered species such as salmon and steelhead.

If we fail to adopt the Boehlert amendment, we will be left with a bill that threatens thousands of miles of our Nation's most valuable endangered species habitat.

The threat H.R. 478 poses to rivers and streams across America was highlighted for me in a recent letter from one of America's leading sports fishing organizations, Trout Unlimited. I would like to read to my colleagues what our friends from Trout Unlimited are saying:

Enactment of H.R. 478 would undercut trout and salmon protection and recovery efforts nationwide. There are literally thousands of dams and other structures nationwide that have flood control as a purpose. H.R. 478 would give dam managing agencies, such as FERC, the Bureau of Reclamation, and the Army Corps of Engineers carte blanche to conduct or authorize construction, maintenance, repair, and operation of dams and other structures in the name of flood control regardless of the impacts of those actions on listed species. This is a prescription for species extinction and further erosion of once thriving sport and commercial salmon fisheries on both coasts of the Nation.

It is for these reasons that our Nation's premier sports fishing organizations have united in strong opposition to H.R. 478. However, these same fishermen are supporting the Boehlert amendment as a reasoned approach providing balance to a very obvious problem and necessitating that truly needed repairs to our Nation's flood control structures that are not unduly delayed by the Endangered Species Act.

Mr. CASTLE. Mr. Chairman, will the gentleman yield?

Mr. FORBES. I yield to the gentleman from Delaware.

Mr. CASTLE. Mr. Chairman, I rise also in strong support of the Boehlert amendment which strikes a balance between protecting valuable endangered species and providing for the timely repairs to our Nation's flood control infrastructure.

This year's massive flooding has been a great American tragedy, and it would be irresponsible if this House does not consider how to reduce the likelihood of such tragedies from occurring again in the future. But Congress should not use this as an excuse to undercut the Endangered Species Act which, rhetoric aside, was not responsible for the rash of flooding.

The passage of H.R. 478, unamended, will not guarantee increased safety. Instead, the bill's broad blanket exemptions to the Endangered Species Act would have environmental impact far beyond the stated goal of protecting human life and property.

I believe that the substitute offered by the gentleman from New York [Mr. BOEHLERT] is a reasoned approach to assuring that truly needed repairs to our Nation's flood control structures are not unduly delayed by the Endangered Species Act.

Today we are provided with a stark choice of one of our Nation's most important environmental policies. We can either vote to exempt millions of acres and thousands of miles of rivers from any endangered species protections, or we can vote to provide meaningful relief to those actually facing true flood control emergencies.

Do the right thing. Support the Boehlert substitute.

Mrs. MORELLA. Mr. Chairman, will the gentleman yield?

Mr. FORBES. I yield to the gentleman from Maryland.

Mrs. MORELLA. Mr. Chairman, I rise in strong support of the Boehlert amendment.

As my colleagues know, today we are provided with the stark choice of one of our Nation's most important environmental policies. We can either vote to exempt millions of acres and thousands of miles of rivers from any endangered species protection, or we can vote to provide meaningful relief to those actually facing true flood control emergencies.

Let me put it in even more stark terms for my colleagues. They can vote for a measure that is strongly opposed by every major fishing and environmental group in the country, a measure that will most certainly be vetoed by the President, or they can vote for a measure that is supported by fishermen and environmentalists and can be signed into law.

What do Trout Unlimited, the American Canoe Association, the Atlantic Salmon Federation, the Federation of Flyfishers and the International Association of Fish and Wildlife Agencies all have in common? The litany goes on. They all support the Boehlert substitute and strongly oppose H.R. 478.

As noted in a recent letter I received from the International Association of Fish and Wildlife Agencies, "The language in H.R. 478 is a broad overreach which goes way beyond circumstances related to disaster response measures and could significantly affect the recovery of endangered fish stocks, such as Pacific salmon."

We respectfully urge you to oppose any legislative proposal which contains this language. We do support the substitute language to H.R. 478.

Join me in supporting the Boehlert substitute. The only measure that can actually be signed by the President—the only measure that makes environmental sense—the measure that will provide real relief to those affected by flooding.

The CHAIRMAN. The time of the gentleman from New York [Mr. FORBES] has expired.

Mrs. MORELLA. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. FORBES] have 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

Mr. YOUNG of Alaska. I object.

The CHAIRMAN. Objection is heard.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the Boehlert amendment is extremely ill-considered. I really wonder, as a member of the authorizing committee that passed the Herger-Pombo bill out, you read the language, it simply says, "Consultation and conferencing is not required for any agency action that A, consists of reconstructing, offering and maintaining or repairing Federal or non-Federal flood control project, facility or structure."

Mr. Chairman, this really is a good debate. I am glad we are having it. We have been trying to get to this debate for over 2 years now in the Congress. It really is going to come down, I guess, between a very extreme application of the law, as is presently the case, by the bureaucrats and the Fish and Wildlife Service and NMFS and others, or whether we are going to have a reasoned, balanced approach.

In our State of California alone, there are over 6,000 miles of levees. There is the picture of one, on the far right, that broke. We have 6,000 miles of aging levees that have been built over the decades. Only 2,000 miles of those are even federally constructed levees. The rest are non-Federal.

Since we have had the Endangered Species Act and the very extreme interpretations and additions that have come about over the years, we now find ourselves with tremendous aging, unstable levees in much of our State. We know it has been documented.

The scientists have said that we live in an era of heightened volcanic activity with dramatically increasing weather changes. Just to illustrate this point, we have a hydrologic history in our State that goes back to about the turn of the century, and yet the five largest storms of record have all occurred since 1954 in the State of California.

We may be facing these kinds of floods every year for the next few years. We need to begin now. We need to protect public safety and human life so that we do not have repeats of this kind of a scene. My heavens, how can we be debating this in this fashion when we have seen scenes all over the country of people whose lives have been ruined, who have been up to their necks in water, who have been forced to move out?

They showed a special, I think on Prime Time Live here last week, talking about New Orleans, the district of

the gentleman from Louisiana [Mr. TAUZIN] when they had the floodings in the 1920's. Seven hundred thousand people were rendered homeless. Are we going to countenance policies like we have in the law today that will preclude the adequate maintenance and repair of these levees in order to prevent this from happening?

This is outrageous, Mr. Chairman. We ought to defeat the Boehlert amendment. It is a bad amendment. It is calculated to stymie this very legitimate effort to allow local agencies or the Federal or the State agencies to do what needs to be done to protect people's lives and property.

I am sorry, that comes ahead of a bug or a plant. I think the issues are pretty well defined in that regard.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I think the gentleman from California [Mr. DOOLITTLE] would agree that what happened here is we had a 500-year flood, a catastrophic event, that caused all this damage. It was certainly not the Endangered Species Act. How can my colleague possibly blame it on protection of habitat and species?

Mr. DOOLITTLE. Mr. Chairman, reclaiming my time to answer the question of the gentleman. You can have a 500-year flood every year in a row for 3 or 4 years. That does not mean they happen every 500 years.

We had a 500-year flood. We had a 250-year flood a couple years before that in parts of the State. So, yes, I blame it on the Endangered Species Act. It does not allow flood control agencies to protect and maintain these levees without jumping through all the hoops that the gentlemen from California [Mr. POMBO] and [Mr. HERGER] and others have described.

It is absurd that we have to spend \$10 million in mitigation on a project that costs \$3 million to construct.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Washington.

□ 1730

Mr. DICKS. Mr. Chairman, as I remember, there were a lot of people offering amendments to cut out funding for the Corps of Engineers and also money for the Endangered Species Act that could have been utilized for these purposes. I think if the gentleman goes back and looks at the record, he will see that some of those amendments are a part of the reason why he did not get more of a response on these issues.

Mr. DOOLITTLE. Mr. Chairman, let me just say this is reasonable language that allows the maintenance and repair of levees without having to go through this absurd, years-long, multimillion-dollar process to protect people's lives

and property. It is an extreme policy under the law now, and we are about to change it. Vote "no" on Boehlert and vote "aye" on the underlying language.

Mr. GILCREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. I think all of us, if cool heads prevail, would have some understanding that, yes, there are problems with the Endangered Species Act; and I think we would all recognize that there are problems with maintenance on various levees. I think we would all recognize that there are costs associated with mitigation.

If we look at the maintenance and we look at what has to be mitigated, it is hard to tell what comes first, the chicken or the egg, but there are serious problems with maintenance and mitigation. I will offer an amendment in a little while to try to deal with those problems.

Mr. Chairman, I stand here today to address the emergency issue at hand, and that is the levees and the levee system that failed, especially in these 48 counties in California, and how do we repair those levees right now. I am supporting the Boehlert amendment because the Boehlert amendment goes beyond present existing law to repair the levees up to 1998. Now, I would be the first one to say that some of those levees might not be ready in 1998 and we are going to have to extend that.

I would also be one of the first people to say that there is a problem with understanding how to maintain a levee so that we do not have to deal with an elderberry bush or a small yellow snake; we can just clear that elderberry bush, fill in that snake hole, fill in that rat hole. I recognize that we have to deal with the situation that we are now presented with, and that is the safety of human beings that rely on the levee system. We have to deal with that.

However, I would go further, Mr. Chairman, and say the weaknesses here today, when we focus on the photograph that the gentleman from California showed us, the breach in the levee and the woman being carried down with the fast-moving water, I would say that the real weakness, if we look at the big picture, is not with the Endangered Species Act. The real big picture here is not with maintenance or mitigation. The real picture here, the weakness, is within State and Federal approaches to flood management. The weakness is with the current labyrinth of dams and levees. The weakness is with land use planning and our attempts to engineer rivers.

In this debate do we need to understand the mechanics of natural processes? Can we protect people behind levees for a 500-year flood that may happen 2 or 3 years in a row, and the answer is no. Do we want to repair the existing levees? You bet we do. Do we

want to resolve the problem of maintenance? You bet we do. Do we want to resolve the problem of mitigation? You bet we do. Do we need to find a solution for the mitigation costs? The answer to these questions is yes.

I feel at this point that the gentlemen from California, [Mr. POMBO, Mr. HERGER and Mr. CAMPBELL], my friends, their motivations are right on target to resolve the problem of flood control, particularly with levees. I just happen to think that they go a little bit too far at this particular point.

Do we want people to move off the levees or out of these cities? The gentleman from Louisiana said, do we want people to move out of New Orleans? The answer is no. Do we want people to move out of Sacramento? The answer is no. Do we want people that are behind levees right now to have to move and go someplace else? The answer is no.

However, my question is—and I know that we want to protect those people behind those levees and clear up the problems with maintenance and clear up the problems with mitigation costs. I fear, though, that if we say adopt the present bill in front of us, that there will be a sense of protection that tranquility will prevail, and we will then begin to expand the levee system and we will put more people in harm's way.

For this reason, Mr. Chairman, at this point, I support the amendment of the gentleman from New York [Mr. BOEHLERT]. I will offer an amendment to help resolve the problem of maintenance and mitigation costs. I will yield to the gentleman from California, and then I will yield to the other gentleman from California.

Mr. POMBO. Mr. Chairman, the gentleman, I believe, understands the Boehlert amendment and understands the main bill that the gentleman from California [Mr. HERGER] and I put together. Does the Boehlert amendment allow maintenance of the levee system?

Mr. GILCREST. Mr. Chairman, reclaiming my time, the Boehlert amendment, in my understanding, does not address the maintenance, the long-term maintenance. The gentleman is correct.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. GILCREST] has expired.

(On request of Mr. POMBO, and by unanimous consent, Mr. GILCREST was allowed to proceed for 3 additional minutes.)

Mr. GILCREST. Mr. Chairman, the Boehlert amendment deals with the existing emergency, which is to repair the levees up to 1998.

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. GILCREST. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, if the area was declared a disaster area from

the floods of 1997, they allow us to repair the damages from the floods in disaster areas from 1997?

Mr. GILCHREST. Mr. Chairman, reclaiming my time, I would say two quick things. No. 1, the Boehlert amendment ensures that repairs that were broken take place in the levee system; but No. 2, if the levees are maintained—and this is what I want to do in my study—if the levees are maintained and cut the grass and deal with the issues, we are not going to have an elderberry bush grow up.

So my amendment, which will amend the Boehlert amendment, I think, will deal with the problem of maintenance.

I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I thank the gentleman and I appreciate his argument. There is a reason we go through the process of endangered species. There is a reason we go through environmental impact statements.

Mr. Chairman, last year the Congress talked about spending \$1 billion for one dam in California, one dam, \$1 billion or more. We went through the assessments, we looked at the environmental assessments, we looked at the alternatives. What did we do? We changed the way we operate at Folsom Dam. We strengthened the levees. We did not build the \$1 billion dam for the biggest floods in our State, and that system worked perfectly.

That is why we go through these assessments, because good environmental practices and the taxpayers' interest coincide so very often. We could have chosen to build a \$1 billion dam, we did not have to. And now for very little money, I think that is the point the gentleman makes, there is a reason for doing this.

Mr. GILCHREST. Mr. Chairman, reclaiming my time, I thank the gentleman from California, I thank both gentlemen from California, and even the other gentleman from California. There are a lot of people from California here.

I think that we all have to recognize that yes, there have been some extremes, and there are some examples. And the gentleman from California [Mr. HERGER] described an example where some maintenance was held up because of the Endangered Species Act, because of the problems with maintenance and because of the problems of mitigation costs.

Those are real issues that actually happened and create layers of bureaucracy that we are trying to swim through, pardon the pun. However, Mr. Chairman, at this point, I think this House would more adequately address the problem if we vote for the Boehlert amendment, which will end in 1998 and in that process ensure that repairs are taking place. In a minute I will offer an amendment to the Boehlert amend-

ment that will deal with the maintenance and the mitigation costs.

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, the gentleman has said that the Boehlert amendment does not address maintenance. The gentleman's amendment is asking for a GAO study. So neither one deals with the real problem that we have of preventive maintenance.

Mr. FAZIO of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Boehlert amendment. I know that the Endangered Species Act is not as well-known to the rest of the country as it is to those of us in California who live with it on a regular basis, and I think that perhaps we speak with more emotion than many of the other people who engage in our debate, perhaps with the exception of the gentleman from Louisiana [Mr. TAUZIN], who exceeds us all. But let me say something that I think has been lost in this entire discussion.

The approach that the gentlemen from California, Mr. POMBO and Mr. HERGER, are taking is not at odds with the approach that was taken by the full Committee on Appropriations unanimously and the essence of the substitute that the gentleman from New York, Mr. BOEHLERT, has brought to us on the floor today.

We may have differences of opinion about the Endangered Species Act, and I, for one, would like to bring the authorization out and go through it line by line on this floor and resolve our various points of difference. But no matter how we feel about that, the bill, as reported out by the Committee on Appropriations coming to this floor next week, contains language which makes a difference for the people who are impacted by this flooding in California.

That amendment was based on a simple premise, that emergency repairs should go forward without any ESA requirements for mitigation or prior consultation to impede them. In other words, for the next, what, 17 months through the end of next year, we believe the districts, the State, and the Federal agencies responsible for putting back in place the flood control system that was rendered ineffective by the winter storms can do so without reference to the Endangered Species Act. That is the thrust of the Boehlert substitute.

Now, it may not be enough to satisfy some, and I understand that there is need for some ongoing approach, maybe expedited approaches that would get through the redtape of bureaucracy more quickly, maybe some things that would provide common-sense permits for our local communities to proceed with on important flood control projects.

We need to talk about streamlined process that gets these projects underway in a construction season, which is already limited by salmon runs and other requirements. We also need to discuss incentive-based approaches to get improved compliance with the Endangered Species Act. We need to make a more cooperative and less heavy-handed bureaucratic approach.

That is all to be done in an approach that could, I think, get broad bipartisan support on this floor as it relates to the entire Endangered Species Act; not a single-shot approach to flood control, but one that would affect all of our districts and that would move us further down the road toward, I think, some understanding of how we can live with this law.

But get this: This Boehlert substitute, which is the only language that the President will sign, we got that message clearly today, is all we can accomplish in this short time-frame. The President will veto the Pombo bill, even as amended, because it is a fundamental rewrite of the ESA that we made up here on the floor, people adding amendments and subtracting amendments.

I mean, the bottom line is we have not done our homework, we have not done the job that needs to be done. We are reacting out of emotion, and I understand that. I feel as the gentleman from California [Mr. HERGER] does about the deaths that have occurred in northern California, the devastating loss of property, and the cost to the taxpayers at every level.

But the solution to this problem is not to take the Endangered Species Act out and shoot it, we can fix it; but it is to deal with all of the other environmental laws that we have not even talked about like the NEPA statute that affects consultation as well and, more importantly, to get the resources we need to fix the levees.

We need State and local taxpayers and property owners and the Corps of Engineers to come up with a comprehensive approach to this solution. We need a flood bond act to pass in California. I am hopeful one will in the next calendar year, in the election either on the spring or fall ballot.

We need to work together on that and not make it appear that the Endangered Species Act has caused the floods. It has, I believe, contributed to delays, I believe perhaps has contributed to additional costs, yes. That is an irritant, that can become a serious problem, but it is not the reason we have the floods. We need to focus on what we can do together to bring about the mix of funding sources that will get on top of this, and I would like to fix the Endangered Species Act in the context of a repair to that entire statute and not just because we have had to suffer in California and in other parts of the country this winter.

□ 1745

I think this effort that the gentleman from New York [Mr. BOEHLERT] has made is designed to get both sides together to give us something we can say to the people of California and other parts of the country who have lost property and lives, and I think we can get the system back up and operating.

The CHAIRMAN. The time of the gentleman from California [Mr. FAZIO] has expired.

(On request of Mr. MILLER of California and by unanimous consent, Mr. FAZIO of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I want to commend the gentleman for his remarks. I think he in fact makes maybe the most reasoned presentation so far on the floor. That is that we have all heard from our constituents and we have all heard from our colleagues, problems with implementation, management, and enforcement of the Endangered Species Act. That is a well known fact on the floor of this House.

The fact is that we have watched and we have battled over this thing over the many years. But the gentleman makes a point; if we really want to address this, it has to be done in a reasoned fashion. We have to bang it out. The gentleman from California [Mr. POMBO] started an effort last year and that came to naught. The gentleman from Alaska [Mr. YOUNG] has approached me this year about whether or not there is a chance to get a group of people to sit down and discuss this. The gentleman from New York [Mr. BOEHLERT], the gentleman from New Jersey [Mr. SAXTON], and the gentleman from Maryland [Mr. GILCHREST] have talked to Members in their caucus about this.

Mr. Chairman, the fact of the matter is we are arriving at a point where there is a critical mass of people who believe that we have an obligation to address this in a comprehensive fashion. I think that is the important way to go about it.

But to use this vehicle as a means of now just driving a large hole into it with respect to huge, huge integrated water projects throughout the western United States, through much of the area of flood control projects, I think would be a terrible mistake. We can do the Boehlert-Fazio amendment. That is doable. The President will sign it. We can take care of this immediate problem. Then we can start with the very hard, difficult work, and that is getting a comprehensive review and changes with this act so in fact it can work for the rest of our economy.

Mr. FAZIO of California. Mr. Chairman, reclaiming my time, I want to

congratulate the ranking member. I am sure the gentleman from California [Mr. POMBO] and the gentleman from Alaska [Mr. YOUNG] are pleased to hear that kind of commitment, because we all know that kind of work has to be done.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, one of the realities here, too, is when people are talking about protecting flood control projects, that is one thing. But then there is going to be a higher burden on the farmers, on the miners, on the other industries, because we are going to have to do this protection at some point.

The CHAIRMAN. The time of the gentleman from California [Mr. FAZIO] has again expired.

(By unanimous consent, Mr. FAZIO of California was allowed to proceed for 2 additional minutes.)

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to clear up one matter. Earlier in the debate when I was in the well, there was some question about the position of the White House. The gentleman from California just reiterated a position that I thought was valid, and that was that the White House, the President, would not sign the Pombo bill in its current form. I am also aware that calls have been made to the White House in the subsequent couple of hours. Would the gentleman bring us up to date on what he believes the position of the White House is?

Mr. FAZIO of California. Mr. Chairman, I believe the White House remains opposed to the Pombo bill, as amended, and supports the Boehlert alternative, which is the only thing we can accomplish in this short time frame; maybe not from the standpoint of many Members the best, but it is what is doable. It is what we can bring home to our constituents in need. We can then go back and take a more comprehensive approach. The committee can do its work. We will not be supplanting them here on the floor.

I do think that is the most constructive thing. What I really want to get across is this bill, as we know, is not going to pass the Senate. It is not going to even come to the President for a veto. It is a vehicle for debate. It is a vehicle to air a problem. Now, let us not lose sight of the fact that we owe it to our constituents to help them with a short-term crisis. Mr. Chairman, I urge Members to support the Boehlert substitute.

Mr. POMBO. Mr. Chairman, I ask unanimous consent that debate on this

amendment be limited to 30 minutes, 15 minutes on each side, equally divided.

The CHAIRMAN. And all amendments thereto?

Is there objection to the request of the gentleman from California?

Mr. GILCHREST. Reserving the right to object, Mr. Chairman, and I do not want to object, but I would like to ensure that my amendment be protected in this time frame.

Mr. POMBO. The request is to the Boehlert amendment and all amendments thereto. I will assure the gentleman that I do not have any objection to his amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. POMBO] will control 15 minutes, and the gentleman from California [Mr. MILLER], the ranking minority member, will, I assume, control the other 15 minutes.

#### PARLIAMENTARY INQUIRY

Mr. DICKS. Parliamentary inquiry, Mr. Chairman.

Mr. Chairman, is it not the regular order that Members who are standing are recognized for a portion of the 30 minutes?

The CHAIRMAN. The request was to expedite and divide in half the control of the time, so the Chair exercised discretion to carry out that allocation which was clearly in agreement.

Mr. MILLER of California. Mr. Chairman, it is my understanding that it is 15 minutes a side. I ask unanimous consent to yield half my time to the gentleman from New York [Mr. BOEHLERT], half of my 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. BOEHLERT] will control 7½ minutes.

AMENDMENT OFFERED BY MR. GILCHREST TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BOEHLERT

Mr. GILCHREST. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. GILCHREST to the amendment in the nature of a substitute offered by Mr. BOEHLERT:

At the end of the amendment add the following new section:

SEC. . GAO STUDY OF MITIGATION REQUIRED FOR LEVEE MAINTENANCE PROJECTS.

Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a nationwide study of the costs and nature of mitigation required by the United States Fish and Wildlife Service and the National Marine Fisheries Service, pursuant to consultation under section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)), for flood control levee maintenance projects; and

(2) submit to the Congress a report on the findings and conclusions of the study.

Mr. POMBO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GILCHREST. Mr. Chairman, I ask that the amendment to the amendment in the nature of a substitute be adopted.

The CHAIRMAN. The question on the amendment offered by the gentleman from Maryland [Mr. GILCHREST] to the amendment in the nature of a substitute offered by the gentleman from New York [Mr. BOEHLERT].

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. POMBO. Mr. Chairman, I yield 4 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman from California for yielding time to me.

Mr. Chairman, I wanted to address the Boehlert amendment. We have heard the gentleman from California [Mr. FAZIO] speak very eloquently to the fact that we need to put off consideration because, after all, hopefully we will be dealing with the Endangered Species Act. But if we think for one minute that the entire act will not evoke more emotion and more concern than this particular bill does, then we are not thinking clearly, again.

Certainly, organizations like Trout Unlimited and the Sierra Club will be lobbying any commonsense reform to the Endangered Species Act. The Boehlert amendment simply codifies into law that which is already being used by rules and regulations, and it is not working. The issue is, when are we going to put humans and human property above the lives of a beetle or a snail or various other species?

These agencies have not been using common sense as they regulate. In Idaho, we have a highway that goes into a little town, Grangeville, that was being washed out because of flooding. Yet, the National Marine and Fisheries Service and the Fish and Wildlife Service would not let us repair that highway. Instead, they allowed a huge amount of siltation and sediment load to occur in those streams and rivers that have been set aside as critical habitat for the salmon because this agency was not willing to make a decision.

In the little town of Julietta the flooding occurred, and the sewer system up there was threatened with the settling ponds, and the Fish and Wildlife Service insisted that the town plant willows and other bushes on the dikes in order to protect the steelhead, and yet the settling ponds were flooding and effluent was going into another

river that is critical habitat for the salmon.

Mr. Chairman, the fact is that when agencies are left to their own, they are mixing up their priorities. We are simply, in this body today, trying to reestablish the priorities. Yes; these are not extreme emotions, and these are not extreme solutions that we are looking to. Mr. Chairman, as I look at these pictures, it does evoke emotion. It is of great concern to us. I think we need to do the responsible thing. We need to support the Pombo amendment and we need to defeat the Boehlert amendment.

Mr. Chairman, I rise in support of H.R. 478, the Flood Prevention and Family Protection Act, and in opposition to the Boehlert-Fazio substitute.

There is a great deal of misinformation being spread around here today, I want to clear some of this up.

Fact—under current law, the Endangered Species Act allows necessary repair work to levees and flood control structures only after flooding has begun to destroy human life, property and wildlife habitat, and only after the President declares the flooded area a disaster.

In other words, flood prevention repairs can begin only after there is a devastating flood. That is not prevention, Mr. Chairman, and is yet another example of the inflexible nature of the ESA.

Fact—H.R. 478 does not gut the ESA, as some claim. If H.R. 478 becomes law, the NEPA process will still provide Federal agencies with an opportunity to ensure flood control measures do not harm endangered species.

Fact—this is not a problem limited to California's 1997 winter floods. We have heard and will hear more ESA horror stories throughout the day. But, Mr. Chairman, let me tell you about my home State of Idaho. We, too, were flooded in Idaho this winter. On New Years Day this year, streams became torrents of water, dykes were breached, levees were blown-out all over Idaho. I personally flew over the flooded areas to see firsthand the devastation. Livestock and other property were lost. Fourteen counties in Idaho were declared disaster areas.

In Idaho, a river is eroding a county road near Grangeville—a road that is the sole access to a housing development. Because of the geological structure of the area, this is the only place that a road is possible. The river is cutting away at the bank and the road, pouring sediment into the river. This sediment impacts the endangered salmon.

Yet, the National Marine and Fishery Service [NMFS] is holding up repair until they can determine if the repair will be harmful to the endangered salmon. This is a dangerous situation because an entire community can be cutoff, and at the very least, travel over this road is hazardous. In the short term, repairs may impact the salmon, yes, but in the long term, the community and the salmon would benefit—sediment would no longer be pouring into the stream, and the citizens can safely travel over the road.

Another example from Idaho, a stream bank on the edge of the town of Julietta—population 488—was breached by flooding. The water

continues to threaten Julietta's sewer system. But the U.S. Fish and Wildlife Service is requiring Julietta to plant shrubs and willows to mitigate impacts to the steelhead, a species that is proposed but not listed as endangered.

The problem is that the planting on the stream bank isn't even in the town of Julietta, and is out of Julietta's control. Additionally, the steelhead isn't even listed. The levee remains breached, and Julietta remains at risk—even through the river remains high and the snow pack in the mountains is at record levels. All forecasts point to another flood.

What we have in Idaho, then, Mr. Chairman, is sediment pouring into a stream—impacting both humans and fish—and the possibility of sewage effluent entering a river—again impacting fish and humans. Grangeville and Julietta and the fish are impacted by the inflexible nature of the ESA, and are at risk. This has also affected the species the ESA was meant to protect—this is simply unacceptable, especially in these emergency situations.

North Dakota recently experienced flooding—and who knows where it could happen next.

Is this the intent of the Endangered Species Act? Is it to be implemented in such a way that communities are threatened? I say no. We must provide the flexibility to protect our citizenry from flooding and in the end, as in the case of Grangeville, protect the endangered species, the salmon.

H.R. 478 does not gut the ESA. This is a good bill which merely provides the flexibility to allow our citizens to prepare and try to prevent disasters.

The Boehlert-Fazio substitute will not work. In fact, it will make the current situation worse. The substitute subjects the repair or replacement of all flood control projects in disaster areas around the National to requirements established by the U.S. Fish and Wildlife Service for projects located in declared disaster areas in California. That's right, Boehlert-Fazio is limited to only California, and authorizes repairs only through 1998. What about my State of Idaho? What about future threats and disasters?

Passing legislation that gives the FWS dominion over people sets up a very dangerous precedent—and is a real threat to families across America. The FWS has already shown that it puts the interests of wildlife over property rights. With the Boehlert substitute, the FWS would have the legal authority to place the interests of wildlife before the safety of people. The safety of people and wildlife should be treated at the same level.

What's worse, the Boehlert-Fazio substitute provides no coverage for maintenance, either before or after flood disasters. As we in the West know, maintenance of dykes and levees is absolutely crucial to flood protection. The Boehlert-Fazio substitute makes existing law worse.

With that, Mr. Chairman, I urge my colleagues to vote for H.R. 478, and vote against the Boehlert-Fazio substitute.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. I thank the gentleman for yielding time to me, Mr. Chairman.

Mr. Chairman, let us think about it for a minute. We would think that there was never a disaster in America before the Endangered Species Act. That act was adopted when Nixon was President in 1972. We wait until 1997 to get up and say that all the floods in California were a result of the Endangered Species Act? Then what they do is to bring an amendment to the floor which, frankly, the reason we are having such a long debate on is that it was very poorly drafted. It was poorly drafted because it opens a huge hole.

If we look on page 2, and I hope all of us will read these bills, because that is what we are sworn in office to do as lawmakers, it says on line 21 that the consultation and conferencing under the paragraphs in this bill are not required for any agency; not required, not required. This is the big loophole.

Mr. Chairman, before coming to the Congress I served in the California Legislature. I drafted bills that created water districts and irrigation districts. Before that I was on the board of supervisors. I sat on water districts and irrigation districts, and on air boards and transportation boards. The reason we have the consultation process in law is so we can avoid the unforeseen problems that come about when you start tampering with nature.

If we are going to do levees and build dams and operate them, we are going to have downstream effects. Those downstream effects can affect people's livelihood. We do not want to exempt that process, because what happens if we do not have that consultation in the beginning, we are going to end up with someone filing a lawsuit in court, and if there is any way to delay a project, just get it tied up in the courts where nobody wins except the lawyers.

I have all the respect in the world for the people that came and wanted to try to deal with the regulatory issues when it comes to floods, but this bill, the way it was drafted, is the wrong approach.

I rise today in support of the Boehlert amendment. Many of the people who spoke in favor of this bill who gave these causes are California legislators. They never got up after the 1986 flood, where we lost lives, and blamed it on the Endangered Species Act. They never took action before when they were in Congress to amend the act.

Do not make any bones about it, this bill, the way it came to the floor, opens a door far beyond what those who tell us they just want to kind of make the process a little bit expeditious really intend to do.

Every time we make a decision to dig, drill, cut, build, repair, we are going to affect something. I assure the Members that they have to have a process where people talk about that before the effects are known, before the effects of the construction are placed upon those that have a negative effect.

I urge Members to support the Boehlert amendment. It is a reasonable approach. It can get signed into law. If we really want to correct the problem, we want it to become law. That is what the President will sign. I urge an "aye" vote.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Missouri [Mrs. EMERSON].

Mrs. EMERSON. Mr. Chairman, it pains me to have to rise and speak against the amendment of my dear friend, the gentleman from New York [Mr. BOEHLERT]. Mr. Chairman, it will not help my district in Missouri, and I realize that that sounds a little bit selfish, but the fact is that my job here is to protect the folks back home, and that is what I need to do.

Let me explain by telling the Members about a couple of situations in my district. We have a small town called East Prairie, where the integrity of its levees are greatly threatened. This is a poor town and it is very prone to flooding every year. Because of this, there are a lot of folks who live on welfare in East Prairie because no companies want to come to East Prairie and locate because they keep getting flooded out.

□ 1800

So we have no jobs. We have lots of welfare recipients and we do not have any prospects for getting new jobs until our levees can be fixed and we can get two pumping stations to help keep those levees strong and maintain them.

I need to know what I can tell the folks in East Prairie, MO, who desperately want to find work. Am I going to tell them that they ought to move away because Fish and Wildlife or the EPA thinks that the pallid sturgeon in our region is more important than them?

And then several miles up the river in a place called Commerce, MO, right on the river we have another problem. If we had a flood half as bad as they had in Grand Forks, the Army Corps of Engineers tells us that we would have a huge chocolate tide coming in because our levees cannot hold the water and, it would spread all the way through our district, southern Missouri, all the way to Helena, AR, the home of our colleague, the gentleman from Arkansas [Mr. BERRY] and the President's home State.

Our levee simply cannot manage that influx of water. We stand to lose half a million lives, several interstates, schools, businesses, private property. It is a terrible situation.

Our landowners, for example, we have to wait 2 years to have an environmental impact statement to tell us if we can even get a permit to fix this. That is not right. Our landowners in both these cases have offered five times the mitigation to maintain and repair these levees, but we are told by the

EPA and Fish and Wildlife that since this is not natural wildlife they will not accept that, but five times hundreds of thousands of dollars of mitigation and it is unacceptable.

So what do I tell these folks in my district? What do I tell them when their lives are in harm's way on a daily basis? That we have to wait 2 years to even try to fix this problem?

So anyway, that is my problem. That is my concern. I sure think that the Pombo-Herger bill is going to help our folks in southern Missouri a lot more than that of my friend, the gentleman from New York [Mr. BOEHLERT].

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

Mr. BOEHLERT. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. DICKS].

The CHAIRMAN. The gentleman from Washington [Mr. DICKS] is recognized for 3 minutes.

Mr. DICKS. Mr. Chairman, I thank the gentlemen very much for yielding me the time.

I rise in very strong support of the Boehlert amendment. I think the Boehlert-Fazio amendment is carefully crafted. It gets the job done but it does not create this great big broad exception in the Endangered Species Act.

Let me just read to my colleagues, I think very careful language that addresses why the bill as reported, the Pombo bill, is unacceptable. The bill would permanently exempt the reconstruction, operation, maintenance, and repair of all dams, hydroelectric facilities, levees, canals, as well as a host of other water-related activities, from the safeguards and protections provided in the Endangered Species Act. There are literally thousands of dams and other structures nationwide that have flood control as a purpose.

H.R. 478 is clearly unnecessary. There is no credible evidence suggesting that the ESA has worsened flood damage. In fact the ESA is already flexible enough to allow expedited review for improvements or upgrades to existing structures in impending emergencies.

The ESA also allows exemptions for replacement and repair of public facilities in presidentially declared disaster areas. The Fish and Wildlife Service issued a policy statement clarifying how the agency is implementing these emergency provisions in the 46 California counties that were declared Federal disaster areas this year. Under the policy, flood fighting and levee repairs are automatically exempted from the ESA if they are needed to save lives and property.

By the way, just to read again the statement by the administration, the administration strongly opposes H.R. 478 because it would exempt all flood control projects from consultation and taking requirements of the Endangered Species Act. The administration clearly supports minimizing flood damage

and protecting the residents living in flood-prone areas, but does not believe that H.R. 478 will achieve these purposes. Because of severe economic and environmental impacts that would be caused by H.R. 478, the Secretary of the Interior would recommend that the President veto the bill in its current form.

Mr. Chairman, that is why I think the Boehlert-Fazio substitute, which is carefully crafted, which deals with the emergency situation, which in essence codifies in law what the President has already done in California through his declaration, is the right way to proceed. This will be in conjunction with what we are doing on the supplemental appropriations bill.

I just hope Members really do understand that this amendment is aimed at weakening the Endangered Species Act and I think will produce a very negative consequence to the timber industry, to agriculture and mining who will have restrictions laid on them because of this exemption.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, we are down to the last few minutes of this debate on the Boehlert substitute. I think it is important to point out here that there are some things that we can get done today which will become law and there are some things that we ought not to get done today which frankly cannot become law.

One of the things which cannot be done today is that we cannot make major changes to the Endangered Species Act because if we were to do so, we would have to have the cooperation of the administration, and the administration has clearly stated as late as the last couple of hours that the Pombo-Herger language is unacceptable and, therefore, it cannot become law.

What can happen today is the adoption of this amendment, the Boehlert substitute, which can then become the base bill which can pass this House, which I believe can pass the Senate and which I believe can be signed into law, which will grant the constituents of the gentleman from California [Mr. POMBO] and the gentleman from California [Mr. HERGER] and the folks from North and South Dakota and the other flood stricken areas the relief that they need in order to repair the flood control systems that have been damaged by the floods.

Mr. Chairman, I just want to urge every Member to do what I have concluded is the right thing in order to pass this aid along, not in the form of money but the opportunity to get things done quickly and in a way that nobody seems to object to, particularly the administration whose cooperation we once again need.

I commend the gentleman from New York [Mr. BOEHLERT] for his hard

work, as well as the gentleman from California [Mr. POMBO], who has a different approach, but I think that in the interest of moving the process forward and in the interest of getting the relief to the folks who need it the most, that there is only one answer and that answer is to vote "yes" on the Boehlert substitute.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I thank my colleague for yielding me the time.

Mr. Chairman, there are two experiences I have had in my life that I would like to point to in setting up my share of this discussion. In 1938 we had a major flood in California. I was 4 years old. I remember it clearly, dropping a ping pong ball outside my back window and it dropped about 12 to 18 inches and hit the water and floated out through the back fence. At that point in time, I understood clearly that nature could have a very big impact upon our lives and that disasters were of great potential that we needed to pay great attention to.

The next event involved the late 1960's, when my colleague from California who is standing over here and I discovered the word environment. And it was a very important development before all of us recognized that mankind was having an impact upon our environment that we needed to pay very careful attention to. As a result of that and the work involving that, I once chaired a committee that developed the toughest air quality management district in the country. I take a back seat to nobody in terms of environmental questions.

But when we find ourselves in a circumstance like that which California is experiencing now, where a major flood control project in southern California would be held up by the woolly star, which is nothing but a cactus that is almost laughable except it gets a little purple flower for about 2 weekends a year; when indeed the kangaroo rat is having a huge impact upon development in the Central Valley where these floods have recently taken place; when the Delhi Sands flower-loving fly is impacting not only the development of a county hospital but the economy and the flood control in the very region I am worried about in the south lands. That would suggest to me that the environmental movement has some way gotten into the hands too often of those people who are on the very fringes of this entire discussion.

It is time to make sense out of the Endangered Species Act. It is time to recognize that these flood control mechanisms in the Central Valley are critical to the health and welfare of our people. And we should not allow extreme voices to dominate this debate.

If we defeat the Boehlert amendment and the Fazio amendment today and

we go forward with this bill, we will set up a discussion that will for the first time in many, many a year cause everybody of good faith to say, hey, we have to make sense out of this thing. There is no doubt that my public is concerned about the environment, but they do not want to have idiocy prevail.

To suggest that these gentlemen on my side of the aisle are interested in gutting the Endangered Species Act is less than a service to the process we are about here. Indeed, we have gone to extremes, and it is about time we took sensible voices to the bargaining table between now and the time the President ever sees this bill and make sure that endangered species that are important to all of us truly have their place in this debate, a very valuable place; but also people, a very valuable species, ought to have a place in this debate as well.

Mr. Chairman. I rise today in strong support of the Flood Prevention and Family Protection Act of 1997. This legislation was introduced by my colleagues Congressman WALLY HERGER and Congressman RICHARD POMBO following the January floods in California which devastated the San Joaquin and Sacramento Valleys. This legislation, which enjoys wide bipartisan support, has been drafted in an extremely focused manner to correct a serious deficiency in the Endangered Species Act as it relates to the interplay between wildlife habitat and flood control projects, facilities and structures.

I also want to thank my colleagues TOM CAMPBELL and BILLY TAUZIN for their thoughtful input and positive changes to this important legislation. The voices these members add to the debate help move this discussion in a positive direction. Their recommendations are welcomed by my colleagues and I who have long-standing concerns over the excesses of the Endangered Species Act and its oft-times arbitrary application.

H.R. 478 allows the reconstruction, maintenance, repair and operation of existing flood control projects before a flood event occurs—not after the damage has been done. This is a critical point. Opponents of this legislation believe that we should sit on our hands while a 100-year flood event wipes out people's property, species habitat and existing flood control projects. This makes absolutely no sense. I cannot believe that opponents of this measure think that endangered species like the delhi sands flower loving fly and the kangaroo rat should have the same priority as the protection of human lives and property. That's right, the extreme environmental groups place species protection over the protection of humans. I hope my colleagues listening to this debate don't have the same set of priorities. The fringe environmental community wants you to believe that this measure guts or rips the heart out of the Endangered Species Act. Nothing could be further from the truth. It simply adjusts shortcomings with the ESA.

The County of San Bernardino, which I represent, is responsible for constructing, operating and maintaining hundreds of miles of flood control facilities. These facilities are designed to protect people and property from

flood damage—not provide habitat for endangered species. The Santa Ana River Mainstem Project and the Seven Oaks Dam are located in my congressional district. These projects are responsible for the protection of millions of lives and billions of dollars of property in Riverside and Orange Counties. I certainly don't believe that the millions of people who are protected by these projects feel that we should wait until after a major flood catastrophe to repair these projects.

As a result of the Endangered Species Act and its ever-changing interpretation and the ever-increasing list of threatened and endangered species, the mitigation requirements on many flood control facilities are cost prohibitive. In fact, the permitting process has become so costly and time consuming that critically needed projects are now often delayed and abandoned. At the very least, we need to provide State and local flood control professionals with the ability to repair existing flood control investments before disaster strikes. It is unfortunate that the regulatory burden on the permitting process has become so encumbered that the public, in many instances, no longer receives the same level of flood protection they once enjoyed.

Make no mistake, this legislation can also reduce Federal costs associated with future flood disasters. As chairman of the Appropriations Subcommittee responsible for the annual budget of the Federal Emergency Management Agency, I know full well the impacts that natural disaster supplementals have on other Federal programs. Prior to the 104th Congress, Congress and the Administration simply added the costs of disaster recovery to the deficit. Congress has now taken the responsibility of fully offsetting federal disaster recovery spending from other important federal programs. In fact, the disaster supplemental which will be on the House floor next week uses housing programs as an offset for disaster spending. While I don't believe that we should have to pit housing and other programs against disaster relief, these will continue to be the tough choices we face unless we get a handle on the costs of disasters.

The Herger-Pombo Flood Prevention and Family Protection Act is one such tool we can use to decrease the exorbitant costs of future flood disasters.

Let's give some relief to the past and future flood victims by providing flood control professionals the tools they need to do their job effectively. As Governor Wilson stated in a May 6 letter to Congressmen HERGER and POMBO, "this bill will make it much easier to avoid loss of life and property by expediting preventative maintenance prior to flooding with the expectation that this would reduce the risk to life and property during the flood itself."

I urge my colleagues to put people first. Support H.R. 478 and oppose the Boehlert-Fazio amendment.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are coming to the end of this debate. Let me just suggest that the experience in Congress is not very good when we try to write wholesale exceptions to an individual law without considering the impact elsewhere.

We did this 1½ years ago with logging without laws. Not only did we devastate a lot of the forests in the Pacific Northwest and elsewhere, but we found out we had horrible impacts in terms of landslides this year that killed people because of lack of restrictions on where cuts were made. We also see that we are having an impact on the commercial fisheries and on jobs.

Now we come to it is essentially levees without laws. This Government, the taxpayers, have spent billions and billions of dollars taking the great rivers of this country that ran across thousands of miles, that have filled hundreds of miles of flood plains, and we have forced them into very narrow rivers with very high levees. Should we be surprised when every now and then the rivers jump out of those levees? That is what happened this year.

But there is no indication at all that that happened because of the Endangered Species Act, and yet we are on the floor today talking about blowing a huge hole in the Endangered Species Act because we are angry about the floods. But the demonstration is simply this, we had too much water for the existing design of the levees and the water blew those levees out. It had nothing to do with the Endangered Species Act.

We had river flows that most of us in our lifetime have never seen in the State of California, they had never seen in North Dakota, they had never seen in the Midwest. It had nothing to do with the Endangered Species Act. It had to do with the fact that so much water was coming through that there was no capacity of the levees to hold.

We ought to be very careful before we accept a wholesale retreat on the Endangered Species Act with respect to huge publicly subsidized Federal water projects in the West and elsewhere.

I say that because of this: If you get these exceptions, then the burdens of meeting the requirements of the Endangered Species Act fall on the commercial fishermen, they fall on the logger, they fall on the miner, they fall on the municipalities, because that burden has to be met somewhere else. And if the levee districts can escape their obligation under the Endangered Species Act, we will be looking to the people in the forests, we will be looking to the people in the commercial fishing industry to try to pick up that burden.

I hope that we would vote for the Boehlert-Fazio amendment and reject Pombo.

□ 1815

Mr. BOEHLERT. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I am grateful to the gentleman for yielding me this time.

I want my colleagues to understand that today they have a choice between

going home and telling people they did something about levees and levee reconstruction or going home and saying that they made wonderful speeches and brought down the legislation which could have helped those people; that they have assured a veto or a filibuster in the Senate which will kill this legislation.

I want to give my colleagues one example of what this means. In the West, salmon streams now are faced with a situation where salmon are becoming endangered species. What this says is that we are stripping those homeowners and others along the shore of the protection of Federal flood control, but we are also doing something else, we are stripping the salmon, which is one of God's great gifts to the people of the Western United States, of all protection. And we will find the great runs of salmon being a matter of cold hard history with those species now gone from the western rivers.

Mr. Chairman, I urge my colleagues to vote for the amendment of the gentleman from New York and against the legislation.

Mr. BOEHLERT. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we are coming to the close of a spirited and very serious debate, and I want to commend all those who have participated for the seriousness of purpose.

My substitute addresses the stated objective of H.R. 478 in a manner that does not violate a very important piece of legislation, the Endangered Species Act, and in a manner that is friendly and sensitive to the environment.

We have a choice. Do we want to solve a problem or do we want to beat up on the Endangered Species Act? I do not find the Endangered Species Act, despite the fact that it is so well-intended, to be perfect. It requires some refinement. But that is another debate for another day. This purpose today is to address an emergency situation.

We have been faced with an emergency situation and we have come up with an emergency response, a response that allows the repair work to go forward not just after the fact, as some have been concerned with, but prior to the fact if there is a substantial threat.

Now, the crafters of H.R. 478 will tell my colleagues that their bill is narrowly crafted. Be wary of that. Do not buy anything from that, because their bill would exempt from the Endangered Species Act maintenance, rehabilitation, repair, or replacement of a Federal or a non-Federal flood control project, facility, structure. The list goes on and on. A blanket exemption.

We have heard expressed here in eloquent terms how important the Endangered Species Act is to America. Do we just want to throw it out? The answer is clearly no. But no law is more important than human life, and we want

to protect human life, and that is why we have the exemptions we do in this bill. When human life is threatened, when there are substantial property investments threatened, we do not want a lot of bureaucrats and red tape and a lot of paperwork saying, well, we are sorry. We do not want people to be in harm's way so we provide exemptions for that.

Now, let me tell my colleagues something. People will say, well, the gentleman from New York, [Mr. BOEHLERT] and the gentleman from Michigan, [Mr. DINGELL] and some of the others are against flood control projects. They do not want to build any public works projects to protect the American people. How wrong they are. Because I am chairman of the Subcommittee on Water Resources and Environment that brought to this floor last year a \$4 billion, 4-year program for flood control and important activities like that which are so essential to California, not just California but New York, too.

So I suggest to my colleagues, if our desire is to beat up on ESA, go ahead. But that is not what we are here to address. We are here to address an emergency. We are here to legislate.

I have been told by the administration that H.R. 478, even as amended, will not be signed into law by the President of the United States. So we can have all the grand speeches we want, all the press releases we want, but we will not have legislation to deal with real problems affecting real people in a real emergency. My bill will be signed by the President. The administration has said so. So that is very important.

Finally, let me point out that my language, my proposal, was passed unanimously by voice vote in the Committee on Appropriations on a bipartisan basis. But that was not good enough. The committee was upset and they objected to it. That is why we are here. Support an environmentally friendly substitute. Let us do the people's business.

Mr. POMBO. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from New York, [Mr. BOEHLERT] is accurate on a few things, and I appreciate that he has come to the floor with his amendment. And if it did what he said it did, I would wholeheartedly support it. I would be the first person down here saying that it was a great piece of legislation and that we all should support it. But it does not do what he says it will do.

It absolutely does not accomplish the goals that we set out. He says it does. His statement says it does. The things that he passed out says that it accomplishes what we want, but it does not.

We do have a choice today, my colleagues. We have a very definite choice. What the amendment of the

gentleman from New York would allow is that this break in the levee, it would allow us to fix that. It would not waive mitigation. It would not waive the Endangered Species Act. It would defer the Endangered Species Act until it was repaired.

Well, what is the difference between that and current law? Nothing. The policy that was sent out by the U.S. Fish and Wildlife Service on February 19 said exactly what the gentleman wants to do. He says the administration will sign it. Well, of course they will sign it, they issued it. Of course they will. It does not take care of the problem that we have, and that is to prevent this from happening.

I would like to show my colleagues, if I may, something that is very real. This is a picture of a levee bank. This is the picture of a levee bank right now. We can see the condition that it is in. They were prevented from maintaining that bank, clearing the brush out so that it could handle the 500-year flood, so that they could handle the amount of water that went through there.

They wanted to do it. They were told they could not until they went through a lengthy bureaucratic red tape mess.

But take a look at that picture a little closer. As they got a little closer in the boat, we begin to see just how bad this is. And we go a little bit closer and we can see the hole, the hole through the levee. We did not see it in the first picture because it is covered with brush, but we can see it if we get up 2 feet away. I know my colleagues cannot see this, but there is a man standing inside that hole.

That is the other side of the river where they had a boil coming up with water pouring out. That is the reality of what we are trying to do.

The amendment of the gentleman does absolutely nothing about this. The gentleman's amendment does nothing on preventive maintenance. It does not allow us to maintain that levee system.

What it does do is it says if the President declares it a disaster area in 1997, from this year's flood, then we can fix it. We can go back and fix that break. It does nothing to take care of an ongoing maintenance problem so that we do not have to come back and do this again year after year after year. It falls short of the goal. It accomplishes nothing.

Yes, we do have a choice. We can go home and tell our constituents that we actually did something about this problem or we can do what Congress has done for the past 40 years: Put up something that looks good, feels good and does absolutely nothing, because that is what the gentleman is giving us, nothing.

The gentleman keeps talking about what is in our particular bill. It consists of maintenance, rehabilitation,

repair or replacement of a Federal or non-Federal flood facility if there is a threat to human life or serious property damage. We can maintain our levees if there is a threat to human life. We can rehabilitate our levees if there is a threat to human life. We can repair if there is a threat to human life and a substantial risk of the loss of private property. That is what we are asking for.

All of this stuff about gutting the act and everything else is just talk. We are asking for the chance to maintain our levees. What the gentleman is telling us is he is telling us that the airplane crew can provide maintenance on that aircraft as soon as it crashes and the people are dead, but until that point we are sorry.

Vote no on the Boehlert amendment and yes on the base bill.

Mr. PORTER. Mr. Chairman, I rise in strong support of the Boehlert amendment. We are all aware of the substantial needs of the victims of the recent floods and we should do all we can to help them. As currently provided in the supplemental emergency bill, all repair of flood control projects in federally declared disaster areas are exempt from ESA regulations. This language was approved by the Full Appropriations Subcommittee. However, since there were concerns over the ESA causing a delay in the construction of flood control projects—although there is no evidence that the ESA is directly accountable to this claim—Mr. BOEHLERT has offered this amendment to be sure that repairs to flood control projects will not be delayed anywhere where there is an imminent threat to human lives and property. This will help current flood victims and dispel any concerns over future maintenance and repairs.

H.R. 478 is not a bill to help flood victims. It is a poor attempt to weaken the Endangered Species act under the guise of emergency provisions. There are acknowledged problems with the ESA that should be addressed in a complete reauthorization bill, but these should not be addressed piecemeal during times of crisis.

Support the Boehlert amendment to alleviate immediate problems and leave other concerns for complete ESA reauthorization.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute, as amended, offered by the gentleman from New York [Mr. Boehlert].

The question was taken; and the Chairman announced that the yeas appeared to have it.

#### RECORDED VOTE

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 196, not voting 10, as follows:

[Roll No. 108]

AYES—227

Abercrombie  
Ackerman

Allen  
Baldacci

Barcia  
Barrett (WI)

Bass	Hinojosa	Owens
Bentsen	Hobson	Pallone
Berman	Hooley	Pappas
Blagojevich	Horn	Pascarell
Blumenauer	Houghton	Pastor
Boehlt	Hoyer	Payne
Bonior	Jackson (IL)	Pelosi
Borski	Jackson-Lee	Petri
Boucher	(TX)	Porter
Brown (CA)	Johnson (CT)	Poshard
Brown (FL)	Johnson (WI)	Price (NC)
Brown (OH)	Johnson, E.B.	Quinn
Capps	Kanjorski	Rahall
Cardin	Kaptur	Ramstad
Carson	Kelly	Rangel
Castle	Kennedy (MA)	Rivers
Clayton	Kennedy (RI)	Roemer
Clement	Kennelly	Ros-Lehtinen
Clyburn	Kildee	Rothman
Conyers	Kilpatrick	Roukema
Costello	Kind (WI)	Roybal-Allard
Coyne	Kingston	Rush
Cummings	Kleczka	Sabo
Davis (FL)	Klink	Sanchez
Davis (IL)	Klug	Sanders
Davis (VA)	Kucinich	Sanford
DeFazio	LaFalce	Sawyer
DeGette	LaHood	Saxton
DeLauro	Lampson	Schumer
Dellums	Lantos	Scott
Deutsch	LaTourette	Sensenbrenner
Diaz-Balart	Lazio	Serrano
Dicks	Leach	Shays
Dingell	Levin	Sherman
Dixon	Lewis (GA)	Skaggs
Doggett	Lipinski	Slaughter
Doyle	LoBiondo	Smith (MI)
Ehlers	Lofgren	Smith (NJ)
Engel	Lowey	Smith, Adam
English	Luther	Smith, Linda
Eshoo	Maloney (CT)	Snyder
Etheridge	Maloney (NY)	Spratt
Evans	Manton	Stabenow
Farr	Markey	Stark
Fattah	Martinez	Stokes
Fawell	Mascara	Strickland
Fazio	Matsui	Stupak
Flake	McCarthy (MO)	Sununu
Foglietta	McCarthy (NY)	Tanner
Forbes	McDade	Tauscher
Ford	McDermott	Thompson
Fox	McGovern	Thurman
Frank (MA)	McHale	Tierney
Franks (NJ)	McIntyre	Torres
Frelinghuysen	McNulty	Towns
Frost	Meehan	Upton
Furse	Meek	Velázquez
Gejdenson	Menendez	Vento
Gephardt	Metcalfe	Visclosky
Gilchrest	Millender	Walsh
Gillmor	McDonald	Waters
Gilman	Miller (CA)	Watt (NC)
Gonzalez	Minge	Waxman
Gordon	Mink	Weldon (PA)
Goss	Moakley	Weller
Green	Mollohan	Wexler
Greenwood	Moran (VA)	Weygand
Gutierrez	Morella	White
Hall (OH)	Murtha	Wise
Hamilton	Nadler	Wolf
Harman	Neal	Woolsey
Hastings (FL)	Neumann	Wynn
Hefner	Oberstar	Yates
Hilliard	Obey	
Hinchey	Oliver	

## NOES—196

Aderholt	Boehner	Chambliss
Archer	Bonilla	Chenoweth
Armey	Bono	Christensen
Bachus	Boswell	Coble
Baesler	Boyd	Coburn
Baker	Brady	Collins
Ballenger	Bryant	Combest
Barr	Bunning	Condit
Barrett (NE)	Burr	Cook
Bartlett	Burton	Cooksey
Bateman	Buyer	Cox
Bereuter	Callahan	Cramer
Berry	Calvert	Crane
Bilbray	Camp	Crapo
Billirakis	Campbell	Cubin
Bishop	Canady	Cunningham
Bliley	Cannon	Danner
Blunt	Chabot	Deal

DeLay	Kim	Rodriguez
Dickey	King (NY)	Rogan
Dooley	Knollenberg	Rogers
Doolittle	Kolbe	Rohrabacher
Dreier	Largent	Royce
Duncan	Latham	Ryun
Dunn	Lewis (CA)	Salmon
Edwards	Lewis (KY)	Sandlin
Ehrlich	Linder	Scarborough
Emerson	Livingston	Schaefer, Dan
Ensign	Lucas	Schaffer, Bob
Everett	Manzullo	Sessions
Ewing	McCollum	Shadegg
Fowler	McCrery	Shaw
Galleghy	McHugh	Shimkus
Ganske	McInnis	Shuster
Gekas	McIntosh	Siskis
Gibbons	McKeon	Skeen
Goode	Mica	Skelton
Goodlatte	Miller (FL)	Smith (OR)
Goodling	Molinar	Smith (TX)
Graham	Moran (KS)	Snowbarger
Granger	Myrick	Solomon
Gutknecht	Nethercutt	Souder
Hall (TX)	Ney	Spence
Hansen	Northup	Stearns
Hastert	Norwood	Stenholm
Hastings (WA)	Nussle	Stump
Hayworth	Ortiz	Talent
Hefley	Oxley	Tauzin
Herger	Packard	Taylor (MS)
Hill	Parker	Taylor (NC)
Hilleary	Paul	Thomas
Hoekstra	Paxon	Thornberry
Holden	Pease	Thune
Hostettler	Peterson (MN)	Tiahrt
Hulshof	Peterson (PA)	Trafficant
Hunter	Pickering	Turner
Hutchinson	Pickett	Wamp
Hyde	Pitts	Watkins
Inglis	Pombo	Watts (OK)
Istook	Pomeroy	Weldon (FL)
Jefferson	Portman	Whitfield
Jenkins	Pryce (OH)	Wicker
John	Radanovich	Young (AK)
Johnson, Sam	Regula	Young (FL)
Jones	Riggs	
Kasich	Riley	

## NOT VOTING—10

Andrews	Delahunt	Reyes
Barton	Filner	Schiff
Becerra	Foley	
Clay	McKinney	

□ 1850

The Clerk announced the following pair:

On this vote:

Mr. Filner for, with Mr. Foley against.

Messrs. KLINK, NEUMANN, WELLER, and SMITH of Michigan changed their vote from "no" to "aye."

So the amendment in the nature of a substitute, as amended, was agreed to.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. DELAHUNT. Mr. Speaker, I was unavoidably detained and missed roll-call No. 108. Had I been present, I would have voted "yes."

Mr. YOUNG of Alaska. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. BONILLA] having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 478) to amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal agencies to

comply with that Act in building, operating, maintaining, or repairing flood control projects, facilities, or structures, had come to no resolution thereon.

## PERSONAL EXPLANATION

Mr. CUNNINGHAM. Mr. Speaker, on Rollcall 90 I was recorded as in favor of the Roemer amendment to H.R. 1275. This was an error. As a supporter of the Space Station, I ask that the RECORD show my intentions to vote "nay" on the Roemer amendment.

## ANNOUNCEMENT OF SCHEDULE FOR THE REMAINDER OF LEGISLATIVE DAY

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I have an announcement to make.

The bill that was just on the floor has been pulled, and we are about to take up a rule on the Juvenile Crime Control Act. There will be about a 45-minute vote on it, and then that will be the last vote of the night. In the meantime those that are on the floor now, they are welcome to leave or take seats so that we can take up this last matter before the House today.

## JUVENILE CRIME CONTROL ACT OF 1997

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 143 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 143

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3) to combat violent youth crime and increase accountability for juvenile criminal offenses. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 5(a) of rule XXI are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be considered

only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield 30 minutes time to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I might consume. During consideration of this resolution, all time yielded is for debate purposes only.

Mr. Speaker, today in this Nation we are faced with a situation where the State and local juvenile justice systems are failing to hold young offenders accountable for their criminal activity.

This rule is designed to give the House a fair and efficient procedure for considering legislation to try to attack the problem of juvenile crime. This rule does provide 1 hour of general debate on the Juvenile Crime Control Act.

In order to allow consideration of the amendment of the Committee on the Judiciary in the nature of a substitute, the rule waives the prohibition against appropriating on a legislative bill. There is one minor technical provision which does allow unexpended amounts which are repaid into a fund to be used for future payments without going through the appropriation process. This is what requires the waiver.

The rule provides that eight specified amendments may be offered on the House floor. Of these eight amendments, six are offered by the Democrats. This procedure is more than fair to the minority. If Republicans had been treated so well when we were in the minority, we would have thought we had died and gone to heaven, Mr. Speaker.

□ 1930

In order to expedite the voting process, the rule provides a vote-stacking authority to the Chairman of the Committee of the Whole.

Finally, the rule guarantees the minority one last chance to offer its best alternative and a motion to recommit which may certainly contain instructions.

Mr. Speaker, we are going to have to get a little more order, because we are coming to a very important part of the debate on this very important issue.

Mr. Speaker, juvenile criminals are a threat to the lawmaking, taxpaying citizens of this Nation to an extent that they have never been before. In order to demonstrate the extent of the problem we are dealing with, let me just provide my colleagues with some very startling facts, and these are really startling.

For example, only 10 percent of violent juvenile offenders, now that is violent juvenile offenders, those that commit things like murder and rape and robbery and assault, 10 percent of them receive any sort of prison confinement.

Let me repeat that one more time. Only 10 percent of violent juvenile offenders that commit murder and rape and robbery and assault receive any kind of jail time at all.

Many juveniles receive no punishment at all. Almost 40 percent of violent juvenile offenders who come into contact with the justice system have their cases dismissed, 40 percent of them with these very serious crimes.

In many cases, by the time the courts finally lock up an older teenager on a violent crime charge, that offender has a long list of violations with arrests starting way back in the early years. According to the Justice Department numbers, 43 percent of juveniles in State institutions had more than 5 prior arrests and 20 percent had been arrested more than 10 times. Approximately 80 percent of those offenders had previously been on probation.

When encounters with the juvenile justice system teach juvenile offenders that they are not accountable for their wrongdoing, I say to my colleagues, the system has to be broken.

In America today no population poses a greater threat to public safety than the juvenile criminals who are back out on the street before they even serve any jail time. Teenagers account for the largest portion of all violent crime in America. Older teenagers, ages 17 and 19, are the most violent of all age groups. More murder and robbery is committed by 18-year-old males than any other group, and more than one-third of all murders are committed by offenders under the age of 21.

The number of juveniles arrested for weapons offenses has more than doubled in the last 10 years. Between 1965 and 1992 the number of 12-year-olds arrested for violent crimes rose 211 per-

cent, the number of 13 and 14-year-olds rose 301 percent, and the number of 15-year-olds rose 297 percent.

I say to my colleagues, something is wrong; this system is broken. What should give us the greatest concern of all is that this dramatic increase in youth crime has occurred in the midst of declining youth population in this country. In other words, while youth population is declining, juvenile crime is escalating at an alarming rate.

While it is true that the Federal Government does not have jurisdiction over the great majority of juvenile crime, Federal law does provide an important model for the States. The Federal Government also can provide assistance to States and localities in their efforts to combat juvenile crime.

The legislation made in order by this rule, the Juvenile Crime Control Act, is designed to provide the necessary leadership and assistance, and I would ask for a "yes" vote on this rule and on the legislation that it makes in order.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], my colleague and my dear friend, for yielding me the customary half-hour, and I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong opposition to this rule. Juvenile crime is a very serious issue for which a lot of people have solutions, and unfortunately this closed rule will allow very few of those good ideas to come to this floor.

Mr. Speaker, in the last 10 years the juvenile crime rate has increased 28 percent. Juvenile crime has become a very serious problem, and we do not have to look far to find it. Within the last year, 7 youngsters have been murdered in a rash of brutal gang violence in the Benning Road area of Washington, DC. Mr. Speaker, Benning Road is not Timbuktu; Benning Road is 10 minutes from this very building.

Nationwide it is not much different, either. Everyday 5,711 juveniles are arrested in the United States. A young man in Los Angeles was recently arrested for vandalism. He fancied himself as a graffiti artist and was charged \$99,000 in restitution. He said, "That's what I like to do, and I'm going to do it no matter what."

Mr. Speaker, these days more and more people care less and less about the consequences of their actions, whether it is gang killings, robberies, violent crimes, or graffiti, and we need to do something about it.

Mr. Speaker, we must do everything we possibly can to make sure that our children do not turn to crime, but I do not believe that this bill does what it should. I do not believe this bill is anywhere near perfect, and I do not believe Members who want to change parts of this bill should be prevented from doing so.

Sixteen germane Democratic amendments were offered and only 5 accepted. The Republican bill we are considering today makes a few good steps but, Mr. Speaker, it stops at the jailhouse door. This bill locks kids up and throws away the key. If a child is 13 or older, Mr. Speaker, if a child is 13 or older, he or she can end up in prison not with other juveniles but with adults.

Mr. Speaker, this is the most horrible idea that I have heard in a long while. Young people should be held responsible for their actions, but we can help them change before it is too late, because for many juveniles it is really not too late. Ninety-four percent of all juvenile arrests are for nonviolent offenses. These children can be changed before they turn to worse offenses.

However, for many of the inmates in the adult jails, the time for change is long gone. These people in the best cases will teach the young people new tricks, and in worst cases they will prey upon them, and in some particularly tragic cases they will kill them.

This is no way to turn a young person's life around. In fact, statistics show that if we try a juvenile as an adult, the crime rate will escalate.

Furthermore, this bill also does absolutely nothing to stem the high number of juvenile crimes and accidents involving handguns. It does not take the very simple and the very effective step of requiring guns to have child safety locks so that if a child picks up the parent's gun, they cannot hurt themselves or anyone else.

We on the Democratic side offered an amendment to require gun manufacturers to have safety locks. It was defeated on a party line vote.

Mr. Speaker, I believe we owe our children to steer them in the right direction before they get in trouble. I do not believe that kids are born bad. I believe they are made bad by absent parents, by abusive environments, and by drug pushers. We need to give these kids a chance to be good. We need to give local police the ability to stop the sale of illegal guns and drugs to these children. We need to intervene early, at the first signs of trouble, and we need to support community initiatives for after-school activities and mentoring programs.

Mr. Speaker, these programs work. They provide positive role models and the children respond. They provide positive incentives and the children respond, and they provide a chance, and Mr. Speaker, the children respond.

I know it may not sound tough; I know it is becoming fashionable to punish, punish, and punish, but I, for one, would much rather see a young person playing basketball at midnight than scared for his life in some dangerous adult prison.

Mr. Speaker, juvenile crime is not hopeless and neither are these children. In my home city of Boston, we have

just seen how successful prevention efforts can be. Three years ago our juvenile firearm homicide rate was 16 percent. Last year, the Boston police department lowered our juvenile firearm homicide rate to zero. That means that not one young person was killed last year in a city of about 600,000 people. That is progress.

The city of Boston uses strong community policing programs and programs like Operation Cease Fire, which uses shared intelligence to suppress violent flare-ups quickly. However, even in Boston we have a long way to go. Juvenile murders may be down, but juvenile drug use is up.

We should be giving youngsters something positive to do after school, and putting child safety locks on guns would go a long way to reducing violent crimes. Unfortunately, this will not happen under this bill, but it should. Mr. Speaker, whether it is the housing projects in Boston, Detroit, Southeast Washington, we owe to our children to help them back on the right path before they grow up. We need to enforce the law, intervene when children first start acting up and prevent young people from turning to crime in the first place.

Juvenile justice should be rehabilitative, not punitive. So I urge my colleagues to defeat this rule, and if it is not defeated, to join the International Union of Police Associations and the International Brotherhood of Police Officers and support the Democratic Juvenile Control and Prevention Act.

Mr. Speaker, let us not give up on our children before it is too late.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Sanibel, FL [Mr. Goss].

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank my friend from New York, the distinguished chairman of the Committee on Rules, [Mr. SOLOMON] for this time. I rise today in very strong support of this rule. It will allow fair consideration of the Juvenile Crime Control Act of 1997.

We have been able to accommodate the minority, allowing votes on five Democratic amendments, including a full substitute. In addition, of course, the House will consider one Republican amendment, and of course the minority has the option to offer a motion to recommit. I have every confidence that we are going to have a full debate and the minority has many avenues to speak.

This bill has had extensive review, with forums being held throughout the country in order to ensure that the measures it takes will effectively deal with what is one of the most difficult and troubling aspects in our fight against crime today, and that is the aspect of our Nation's young people.

I know, talking to colleagues on the floor and in the cloakrooms and around town, that Members are coming to grips with this issue. I recently met with the Juvenile Justice Advisory Board in my own district in southwest Florida to discuss some of the problems we are having. Florida is a pretty progressive State. We do have the equivalent of gun lock laws and things like that, good safety issues, but we still have an awful lot of youth crime.

In an honest discussion with both teens and adults on the Juvenile Justice Advisory Board, I heard firsthand about a system that is failing both troubled children and our society at large. Our juvenile justice system fails to respect teens by ignoring or glossing over their misdeeds, and this in turn breeds a lack of respect for laws and civil society among our teens as well.

Respect is still part of our vocabulary in this country. We need to remember that.

□ 1915

We need innovative approaches tailored to local needs. I hope this bill, by setting a strong example, will spur this kind of change.

At the national level, according to the Department of Justice, 17- and 18-year-olds are the most violent of all age groups. Let me say that again. The most violent of all age groups are 17-year-olds and 18-year-olds. Younger criminals are getting increasingly violent.

It is long past due that we make juvenile offenders understand there are real consequences for criminal behavior. Right now, as Chairman SOLOMON has said not once but twice, and I will say again, only 1 in 10 violent juvenile offenders receives any confinement. If Members do not learn or hear anything else in this debate, remember that statistic. Our youngest career criminals are getting away with the most heinous crimes over and over again, and it is not just gang warfare. Wake up.

I am pleased that H.R. 3 will address this by allowing and encouraging tough penalties, rather than perpetuating the slap-on-the-wrist approach.

I urge my colleagues to support this rule. It will get the debate done, and it will get it done fairly. I urge support for this bill. It will do something America will be proud of and needs desperately.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. BLUMENAUER].

Mr. BLUMENAUER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I strongly urge a no vote on this rule. Every day 1 million children go home in this country to households with loaded guns. Fifty-five percent of the guns in this country are loaded, kept in homes. It results in the death of approximately 16 children a

day, and for every child who is killed, there are approximately 5 who are seriously wounded.

If this gun lock proposal would come to the floor, an element that both sides of the gun control issue agree upon, which 80 percent of the American public support, if the Committee on Rules in their wisdom would allow us to bring this before the House, it would overwhelmingly pass, and next year at this time there would be dozens of children alive, hundreds who would not be wounded, including the accidental deaths and use in violent crime.

I strongly urge a no vote on the rule. Send this back, and allow us to give something that all Americans can agree on.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Middleburg, NY, [Mr. BEN GILMAN], one of the most effective Members of our body and chairman of our Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

I am pleased to rise in strong support of the rule, H.R. 3, the Juvenile Crime Control Act, legislation which helps address a multitude of problems facing our Nation's juvenile court system. We have witnessed a doubling in drug use among teenagers every year since 1993. At the same time there has been a steady decrease in the numbers of young people who view the dangers of drug use as any serious, legitimate problem.

That softening of attitude toward drugs and the increased abuse of substances are major factors in the subsequent rise in the crime rate of those under the age of 18. In fact, just last Sunday, on ABC's "Meet the Press," FBI Director Louis Freeh stated that the central problem that fuels violence, particularly juvenile violence, is drug use, drug selling, drug dealing, and drug trafficking.

For the past several years law enforcement agencies have attempted to meet the challenge posed by the rise in juvenile crime, and especially in violent crime. Regrettably, our police and prosecutors are hampered by a system which restricts information sharing and discourages serious punishment. This legislation moves to correct those shortfalls.

There are those who would say this bill focuses too much on punishment and not enough on prevention. I have long been a believer in prevention programs as a method for deterring youth crime. However, I do believe that once an individual has committed a violent felony, it is often too late for prevention.

Mr. Speaker, prevention has its place. Yet, I submit that it has no place with those who have decided to forgo alternate routes but instead focus on a life of violent crime. Those criminals should face punishment and

accountability for their actions, not excuses offered by their apologists, who are more interested in advancing some social theory than protecting the law-abiding community.

Accordingly, I ask our colleagues to join in supporting this legislation which moves to address the growing problem of violent youth crime.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I rise in strong opposition to this rule. Mr. Speaker, last week we had an open rule on patents. That is an important issue. Today we had an open rule on endangered species and flooding. My district has flooded three winters in a row. That is an important issue. But neither one of these issues rises to the importance of juvenile delinquency and the threat it poses for our country.

Mr. Speaker, I think that to have 200 minutes to discuss the issues of juvenile delinquency and what as a country we can do about them is not appropriate.

The underlying bill before us takes the \$1.5 billion currently slated to flow into our States and communities from the Violent Crime trust fund and puts it all into a scheme of mandatory trial of teenagers as adults. The interesting thing is that from our analysis, arguably only 12 States are going to even be allowed to apply for the funding because the others do not have the scheme required by the act.

Mr. Speaker, I do not think \$1.5 billion for 12 States—and not one cent for prevention—is what this country needs to address juvenile delinquency. There are certainly young people who need to be tried as adults. There are young people who have done horrible things. But we know that doing nothing but punishment will not solve our problem.

My friend Mark Klaas, whose wonderful daughter was murdered, said something along these lines: "To say that we are curing crime with prisons is kind of like saying we are going to cure disease by building cemeteries." It is too late to deal with the problem only after the fact. We need to lend our efforts to preventing crime as well.

We also need to have all of the energies and all of the thoughts of every Member of this body, not just one party line vote. We need to have rigorous debate, not 200 minutes. I would urge a no vote on the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today in opposition to the Republican rule and the McCollum bill. There is no question that we have to get tough on juvenile crime. Everyone in today's Chamber agrees on that issue. The debate is, how are we going to do that, and how serious are we going to be about stopping juvenile crime.

The rule that we have before us prevents the true debate from ever taking place, the true debate that must take place on how to get juvenile justice.

With this closed rule, the Republicans prove that they do not want to hear the truth about this issue. They do not want to hear the facts. Here are the facts. The facts show that kids sentenced to adult facilities have higher recidivism rates than kids punished in the juvenile system. Listen to that. What the Republicans want to do is seek a solution that worsens the problem and does not improve the situation.

Fact two: Facts show that kids face shorter, I repeat, shorter and easier sentences in the adult system than they would under the juvenile court judges. It makes perfect sense. You have a teenager in front of you versus a hardened criminal 30 years, 40 years old. If you are the judge and you have overcrowding, who are you going to sentence?

The fact of the matter is and the statistics, let me repeat, the statistics prove this, that the kids that are violent criminals get less time, which I do not think is what the gentleman wants to do, but which he ends up advocating for in supporting the Republican bill.

Finally, Mr. Speaker, I think we need to get beyond the myths of this and we need to get to the facts. That is what we are not going to get to under this Republican closed rule because it will not give us the adequate time to debate this issue.

Finally, Mr. Speaker, let me say how disturbed I am that we are not even going to include a child lock safety device with the purchase of firearms. It is, to me, shameful in this country, when we have 16 kids getting killed every day, that the Republican bill has no provision for a child safety lock to be sold with guns. That is another reason to vote against this rule.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just say to my good friend, the gentleman from Rhode Island [Mr. KENNEDY] that if he examines the rule, that almost all of the time is allocated to the Democratic Party. All of the amendments that were made in order were mostly Democrat. I think there was one Republican. We cannot be any more fair than that.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. BILL MCCOLLUM], one of the most respected Members of this body when it comes to these kinds of issues. He is a member of the Committee on the Judiciary.

Mr. MCCOLLUM. Mr. Speaker, I just want to address under this rule for 1 minute what the purpose of this legislation is all about today, because there are some misperceptions about it.

The reason why this legislation is out here is because the juvenile justice

system of the Nation is broken. This is primarily a State and local matter in the sense that most juveniles are tried in State and local courts. There are only about 300 a year that are tried in Federal court. Usually those are for peculiar reasons of where the crimes are committed, Indian reservations, et cetera.

The problem we face is that roughly one-fifth of all violent crime in this country today is committed by those who are under the age of 18. That is 1 out of every 5 murders, rapes, armed robberies, assaults, et cetera.

This is a shocking number in and of itself, but when we consider the fact that the majority, the highest number or percentage of any group that commits murder in this country are 18-year-olds, the largest number of any age group that commits rapes are 17-year-olds, that 64 percent of all violent juvenile crime is committed by those under the age of 15, and then we see that in the juvenile justice system, of those who are found and adjudicated of having been guilty of a serious violent crime, only about 10 percent are ever incarcerated in any kind of an institution, juvenile detention facility or otherwise. It is remarkable. The average length of stay for those that are is less than 1 year. I think that is a serious problem.

Even more serious is the fact that when we look at the juvenile justice system for the early delinquencies, where we really ought to be addressing this problem for vandalizing a home or a store, running over a parking meter, doing graffiti on the wall of a warehouse, usually law officers do not even take these kids before juvenile courts like they used to. There are no consequences these kids see.

Juvenile judges, when they do get hold of a youngster for one of these kinds of misdemeanor crimes, usually it is 10 or 12 times before the juvenile judge on average before there is any kind of a sanction. That means community service or restitution or doing whatever we might think of as a relatively mild sanction.

So is it any wonder in a system like this that when somebody gets to be 16 years old, has a long list of doing these offenses, that when they get a gun in their hands they do not hesitate to pull the trigger because they do not think there are going to be any consequences to doing it?

This bill is about repairing the juvenile justice system and putting consequences back in there. It does in it in two ways. One, it provides for a model Federal system for those limited number of juveniles who come into contact with the Federal system. Two, it provides \$1.5 billion over 3 years, \$550 million a year in grants, incentive grants to the States and local communities to spend as they see fit, generally, on fighting juvenile crime.

It provides just simply four basic qualifiers to get this money, because we want the States to take action and change the way they are behaving with respect to juvenile justice.

It requires that they have a sanction of some sort for the very first delinquent act of a juvenile delinquent, and graduated sanctions for every delinquent act that is more serious than the first one thereafter.

It would require that prosecutors at the State level be given the discretion to prosecute, it does not require they do so, those of 15 years of age or older who commit serious violent crimes, and we are talking about murder, robbery, rape, that sort of thing.

It would require that for those who have committed at least one lesser offense, for the second one, and they commit a felony, the records be kept on them. Third, it requires parents to have some accountability for not the juvenile acts, but for whatever the juvenile judge designates them to.

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This bill does not contain prevention provisions in the sense that traditionally we think of them before we come in contact with the juvenile justice system, because we have two other bills where we deal with that. One will be out here in about a month on the Office of Juvenile Justice Delinquent Prevention from the Committee on Education and the Workforce. That deals with \$150 million in prevention grant programs. It is a traditional area we need to work on, and we all are interested in that.

It also is true that we are going to have an effort to reauthorize or authorize and have appropriated about \$500 million again this year for the general crime prevention block grant program that we instituted last year to go to the cities and the counties to fight crime as they see fit which, of course, includes fighting juvenile crime.

So there are going to be a lot of prevention programs funded out here on other bills before one comes in contact with the juvenile justice system.

This bill tonight is designed to repair a broken juvenile justice system. That is the single most important prevention thing right now that I can think of that we can do, even though there are other matters that need to be dealt with when it comes to juvenile crime. That is what this bill is about, not about anything else. It is very narrowly focused, designed to repair the Nation's broken juvenile justice system that is not working today, to get more funds, more probation officers, more judges, more detention facilities, and to get sanctions started for the early juvenile delinquent acts.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. MCCARTHY].

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in opposition to the rule.

The rule to H.R. 3, the Juvenile Crime Control Act of 1997, does not allow Members to engage in a full and fair debate about reducing juvenile crime and making our schools safe. The closed rule denies Congress the opportunity to discuss child safety lock legislation. Child safety locks can help make our schools and our streets safer for our children. The loaded and unlocked guns are being taken from our homes continuously and used to commit juvenile crimes in our schools. Failure to allow this debate on safety locks is expensive for the American people. We in the health care system know that it costs us almost \$3.5 billion, but, more than that, we are losing our children.

According to National Safe Kids Campaign Chairman C. Everett Koop, locks and load indicators could prevent more than 30 percent of unintentional firearm fatalities.

Child safety locks are not expensive. Child safety locks will reduce the cost to the American taxpayers associated with juvenile crime.

This is not the same old debate about gun control. This is about reducing violence and its associated costs.

The amendment we would like to debate would simply require federally licensed firearms dealers to sell child safety locks with firearms. Nobody's guns are going to be taken away. There will be no further Federal requirements for purchase.

It is a simple safety lock. We have bills that make it impossible for children to get into an aspirin bottle. Do my colleagues not think we should do the same thing with a gun?

Therefore, I urge my colleagues to oppose this rule. Let us try and save some kids these days.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER], a fighter for gun control.

Mr. SCHUMER. Mr. Speaker, I thank our ranking member of the Committee on Rules for his generous cession of time.

Whatever we think of the bill that is before us, and there are a lot of opinions, the rule proves one thing: The Republican leadership is scared of the NRA. We already know the Republican Party opposes reasonable measures against gun violence, but now they are saying we cannot even talk about it.

The Republicans want to make guns a four-letter word on the House floor, no discussion allowed. Their whole legislative strategy is built around a single objective of preventing the House from even voting on gun safety measures. When we are talking about youth violence, Mr. Speaker, there is nothing more relevant than guns.

The reason juvenile crime is so much more violent today than ever before is because youth gangs are so well armed. Back in the 1960's, there was plenty of

anxiety and plenty of gangs and plenty of young men on the streets angry, but all they had was their fists and people did not come home in coffins and in body bags. Now guns in many of our cities are everywhere. We are refusing to even debate that issue.

Every amendment we have offered to this bill that would deal with the underground gun market, a simple trigger lock provision that my colleague, the gentlewoman from New York, talked about. Or stiff mandatory sentences on kingpin gun traffickers, the NRA has always told us punish the criminal. These gun traffickers are among our worst criminals, and my colleagues would not even allow us to debate it in the bill. Every amendment has been ruled not germane. Mr. Speaker, this is a gag rule on preventing gun violence. The whole bill has been set up so that gun amendments can be kept off on technical grounds.

Members know we are right about guns, but we are so afraid of the gun lobby we will not even put the issue to a vote. That is the true, behind-the-scenes story of this bill, that the NRA is writing the script.

The gentleman from Florida, the chairman of the Crime Subcommittee, has been working for months on this legislation. He has been very open to input from the minority, and for that I thank him. In fact, the gentleman from Florida [Mr. MCCOLLUM] brought the Committee on Rules a manager's amendment that would have added to this bill a whole series of provisions proposed by myself, the gentlewoman from New York [Mrs. MCCARTHY] and the administration on guns. But the Republican leadership is keeping that manager's amendment out of the bill, an amendment by the majority's own subcommittee chairman.

There is one and only one reason for this, so that the minute anyone says the word gun violence, gun control, the Republicans can jump up and say, out of order. That is a shabby way to legislate. I urge Members to vote against the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

As I look at this legislation, I just wonder, because there have been mentions of some gun lock safety equipment. This bill does not deal with gun lock safety. That legislation perhaps could come again at some future time.

I think what we really do need to do is to talk about the relationship with the White House. Let us call attention first, I would like to call attention to the fact that we Republicans have been in office here for about 2 years and 2 months or so, and I wonder where all this legislation was prior.

Mr. Speaker, I yield to the gentleman from Florida [Mr. MCCOLLUM], chairman of the subcommittee, to perhaps answer that question of what happened to the manager's amendment and the relationship with the White House.

Mr. MCCOLLUM. Mr. Speaker, I would like to make a comment. I think that there is an explanation in order. I had offered a manager's amendment yesterday including a number of things before the Committee on Rules that are in the President's bill that are perfectly acceptable and I think ultimately should be passed into law, including enhanced penalties for those who are trafficking in guns with juveniles or juveniles who commit violent crime with a gun and so on. But the truth of the matter is that we were in negotiations with the administration, the leadership, my leadership, all through the day yesterday and even today attempting to come to some accommodation around the edges with respect to these matters, and they were apparently unsuccessful.

I was not involved in all of those, but I know that they were going on at the highest level. I think those negotiations will continue and that ultimately we will have a lot of these provisions that we can pass out here on the floor. But they are not part of this bill. I would like to have been able to put them in there. It would be nice to pass it all at one time. But we will have other opportunities and other days to do this. Today is not the only day.

What we are focusing on today and tomorrow is repairing a broken juvenile justice system. That is the highest priority. We should not diminish its importance. I think my colleagues on both sides of the aisle should recognize that fact, argue if they want about what maybe else we should do in addition to this, understand there is nothing more important to fighting violent juvenile crime or juvenile crime at all than repairing the Nation's collapsing juvenile justice system and putting what is necessary in there to get sanctions back into the system for those early delinquents acts so that we can get consequences and that kids understand there will be consequences for their juvenile acts. I think that is very, very important.

Mr. MOAKLEY. Mr. Speaker, I yield 15 seconds to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, would the gentleman from New York, my colleague, chairman of the Committee on Rules, answer a question?

The gentleman said maybe some other time we can bring the trigger-lock legislation to the floor. Will the gentleman give us a commitment that we will bring that legislation to the floor at some point before this legislative year is out?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, the gentleman is a member of the Committee on the Judiciary, is he not?

Mr. SCHUMER. Mr. Speaker, I am.

Mr. SOLOMON. Mr. Speaker, that is the committee. I suggest the gentleman take it up with his committee.

Mr. SCHUMER. So the answer is, the gentleman will not give us a commitment.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, guess which State in the Union has the most aggressive juvenile justice laws? The State of North Carolina. If we measure it based on who tries and convicts more juveniles as adults, it is North Carolina. One-fifth of the juveniles tried, convicted, and sentenced as adults are in North Carolina.

The Republicans talk about do the adult crime, serve the adult time. We do it in North Carolina. But guess what? Under this bill, North Carolina would not qualify for funds under this bill. They say they want us to be aggressive, lock them up. But, no, they will not give us any funds under this bill. In fact, of all the 50 States, 39—at least—of the States do not qualify for funds under this bill, including North Carolina, which has the most aggressive laws.

Now, why? Because in North Carolina the judge decides whether somebody is going to be tried as an adult rather than the prosecutor deciding, and the Federal Government under this bill would require that the prosecutor make that decision rather than the judge making that decision. So we are going to be deprived of funds unless we change our laws to comply with the Federal law.

Does that make any sense? What we have found out is that one of the few States under this bill that would qualify is the State of Florida, which is the State of the sponsor of this bill. In fact, once we keep investigating, we may find that the only State in the Union that will qualify for funds under this bill is the State of Florida, the State of the gentleman from Florida [Mr. MCCOLLUM].

What everybody ought to be asking themselves is, does my State get anything under this bill? The answer is going to be no for at least 39 out of the 50 States. We ought to reject this bill. Reject the rule. Send it back and let us do something worthwhile.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. DELAHUNT], a gentleman who has dealt with teenage juvenile delinquency for some 21 years and has compiled an outstanding record, and is now serving in Congress with us.

Mr. DELAHUNT. Mr. Speaker, I rise in opposition to this rule for very similar reasons that were just articulated so eloquently by the gentleman from North Carolina. This rule denies the House the opportunity to vote on an

amendment that I had intended to offer, that I had tried to offer which would have ensured that every State, every city, every town, and every county would be eligible to access the \$1.5 billion authorized in this bill. It is important to understand that the bill before us, as others have articulated, imposes conditions on State and local governments—mandates, if you will—before they even have a chance to file an application to access that \$1.5 billion.

In fact, to qualify just to access the \$1.5 billion, approximately 40 States would be forced to legislate massive changes in how they deal with juvenile offenders.

□ 1945

They would be compelled to enact laws that have not been proven to be effective and, in my opinion, will actually increase crime by sending kids to graduate schools for crime, and it does not make any sense.

We should know that only 12 States can even file an application under the terms of this bill, and it is unclear whether even all of them would qualify. Once again we have Washington telling the States and local governments what to do. Washington has the answers. Well, Washington does not have the answers. The State and local governments do.

As my friend from Massachusetts, Mr. MOAKLEY, stated in his opening remarks, the city of Boston has not had a single juvenile murder since July 1995, almost 2 years. They instituted a plan, a local plan, that combined prevention, intervention, prosecution, and treatment. They knew what they were doing. They did not need Washington to tell them what to do. Yet under this bill Boston would not qualify for funding despite those remarkable results. That does not make sense to me, but Washington knows best.

If those from California, those from Ohio, and Pennsylvania, Texas, or Illinois, just to name a few, want to access some of these Federal dollars to try the Boston approach, they cannot do so because their laws do not meet the conditions in this bill. But again, Washington knows best.

The reality is that Washington cannot know best because there is no Federal experience in this area, no Federal juvenile justice system, no courts, no judges, no detention centers, no probation departments. In fact, as the primary sponsor indicated, there are fewer than 200 juveniles currently serving Federal sentences, compared with the 300,000 juvenile offenders locked up in State juvenile facilities.

Given those facts, we have no business imposing national standards on the States and localities that are working to solve the problem of juvenile justice. Let us help them, not tell them what to do.

Mr. SOLOMON. Mr. Speaker, I yield 2½ minutes to the gentleman from Bolivar, MO, Mr. ROY BLUNT, one of the outstanding new Members in this body.

Mr. MCCOLLUM. Mr. Speaker, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman for yielding to me for the moment.

I just want to respond to the fact that nobody expects this bill to be something that every State or maybe any State qualifies for right now. The whole purpose is for incentive grants.

The idea is to get the juvenile justice system in this country going again. No State has to do anything under this bill. There is no mandate in here. But if the States want the money, then they will have to at least demonstrate that they are punishing, sanctioning with some sanction, for the very first juvenile delinquent act and every one thereafter.

Then once they get the money, they can spend it as they want to fight juvenile crime. But that is the idea.

Mr. BLUNT. Mr. Speaker, reclaiming my time, I rise in support of the rule, I rise in support of this concept. Normally, I would be on the side of my friend from Massachusetts on this issue, because I think these are issues that are generally best left to the States.

But I think, clearly, juvenile crime has exceeded the bounds of the States. It is clearly an interstate problem. It is clearly a problem that trafficks easily from one State to another.

I also disagree with the idea that this puts juvenile criminals in a graduate school for crime. They have already been in a graduate school for crime. We call that graduate school for crime gangs.

Now, this is not about Dennis the Menace. This is not about somebody violating a few rules. This is not about Dennis the Menace; it is about Billy the Kid. And I think we need to stop Billy the Kid. I think we need to stop that pattern where actually, in gangs, they turn to the young gang members and tell them to commit the crime because they are not going to have to face the penalty.

This is something that States will benefit from. States like Missouri and Massachusetts and North Carolina can meet the requirements of the bill and can qualify.

Mr. DELAHUNT. Mr. Speaker, will the gentleman yield?

Mr. BLUNT. I yield to my fellow freshman, the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Speaker, I ask my friend from Indiana if he is ready and prepared to go back and tell his Governor, to tell his State legislature that we have the answers here in Washington and they cannot be resolved by

the State of Indiana and by the communities in Indiana? Is that what the gentleman is suggesting to me?

Mr. BLUNT. Mr. Speaker, I would say to the gentleman that, being from Missouri, I would be glad to tell the Governor of Indiana that, but I will also tell the Governor of Missouri that.

I think this is a problem that, as we have seen crime decline all over the country in total statistics, we have seen juvenile crime rise rapidly.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California, Mr. DUKE CUNNINGHAM, a very respected Member of this body.

Mr. CUNNINGHAM. Mr. Speaker, the gentlewoman a moment ago spoke on trigger guards, and I understand she had a personal family loss and I do not know how I would handle that myself. I would also let the gentlewoman know I am a member of the NRA, and that I have trigger guards, or my weapons are all in safes and my daughters and my son have been taught how to use those in a safe manner.

In fact, the keys are in a different position, in case one of their friends walks in and finds it, so they will not have an accident.

But I would also advise my friends on the other side to look into COSCO, who shipped in 2,000 fully automatic AK-47's. The actual gun runners themselves were in the White House and contributed to the DNC; Mr. Huang, who contributed and arranged \$366,000 for COSCO, a company owned by the Communist Chinese.

I would ask that they look into the M-2's that were going down to Mexico to disrupt those elections, so they put leftists in their legislature. And do my colleagues know where the AK-47's were impacted and headed for in San Francisco, in my State of California? They were targeted for the inner city gangs. These are fully automatic weapons, which we do not sanction.

But I would ask for a little bit of clarity when my colleagues point fingers. Let us take a look at where the threats are in this country and let us try to stop them, but we also need to look inwardly.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman for his courtesy, and I would make two quick points. On the gentleman's first point, as an NRA member, the gentleman has safety provisions on his guns. For automobiles we require, and throughout America, that people wear seatbelts. There is no difference here. The gentleman is good that he does it; other people do not. We can save lives by requiring them.

Second, on the gentleman's other point on the importation of assault weapons, we have tried in this House to get amendments to the floor to allow

that to happen. Repeatedly, we were not allowed.

Mr. CUNNINGHAM. Mr. Speaker, reclaiming my time, I would ask the gentleman's help in stopping the Communist Chinese COSCO from taking over Long Beach Naval Shipyard.

Mr. MOAKLEY. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California [Ms. MILLENDER-MCDONALD].

Ms. MILLENDER-MCDONALD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would say to the gentleman from California [Mr. CUNNINGHAM] that he should really stop his propaganda on COSCO. He is ill-advised, and therefore he should stop that with reference to COSCO and Long Beach.

Mr. Speaker, I rise today in strong opposition to the rule on H.R. 3, the Juvenile Crime Act of 1997. This closed rule would severely limit our ability to offer important amendments to this legislation. I am particularly concerned that the rule precludes amendments to protect children from the accidental discharge of firearms.

As elected Representatives we have an important responsibility to advocate for our Nation's children by prohibiting the transfer of a firearm without a child safety lock as an integral component.

Every year hundreds of children between the ages of 1 and 19 are killed by the unintentional discharge of handguns. Since 1987, more than 4,000 innocent boys and girls have lost their lives through unintentional firearm deaths.

The loss of these young children can be prevented, which is why I have authored the Firearm Child Safety Lock Act of 1997. This legislation would prohibit any person from transferring or selling a firearm in the United States unless there is a child safety lock.

Further, this legislation would prohibit the transfer or sale of firearms by federally licensed dealers and manufacturers unless a child safety lock is part of its assembly.

However, legislation is not enough. Responsible handgun owners should child-proof their firearms whether they have children or not. I have outlined a number of child-proofing options and would like to submit them for the RECORD.

The Firearm Child Safety Lock Act of 1997, once enacted, will prevent the future loss of lives of our innocent children. These are our children, our sons and our daughters, and the future of this country. As parents and leaders it is our obligation to protect our children from senseless deaths caused by the unintentional discharge of firearms.

This is not gun control, this is a safety measure. If gun owners want to be nice people, as stated by the NRA's president, Wayne LaPierre, then they would support this amendment and

curb the senseless deaths of our country's children due to unintentional discharge of firearms. For this amendment and other amendments I urge my colleagues to oppose this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am not sure if my good friend from California is still on the floor of the House, but it is disappointing when my friend from California accuses adults of gun running but he wants to lock up the children.

I rise to oppose this rule because I thought we could come to the floor of the House and reasonably look at the statistics on juvenile crime and juvenile crime prevention and really respond accordingly. I thought, for example, that we would understand that this bill is nothing but a punitive bill with no resources to address the questions of concern in making sure that we prevent juvenile crime.

One, we want to expose the records to the public rather than giving the records only to school officials and social service agencies. We do not want to rehabilitate the child; we want to punish the child so that they never have the opportunity to be rehabilitated. We want to house children in this bill without looking at the ramifications of housing children with adults.

We had amendments that I offered that were not accepted by the Committee on Rules. I am disappointed in that, not because we need to discuss more air on the floor of the House, but really what we need to do is put a bill together that we can all support.

Certainly, I think it is very important that even though we all talk about we believe in the safety of guns, it does not appear to be reasonable that a simple act of having a trigger lock could not be an amendment for this particular bill.

I hope this bill goes off the floor of the House, goes back to being addressed and assessed, and realizes that the best thing to do for all of us is that helping children should be the key element of juvenile law coming out of this Congress. We should, in fact, make sure we do not house children with adults, and we should, in fact, make sure that we can provide the amount of prevention dollars, and we should protect children from the unwarranted use of a gun and protect them from the detrimental act of the reckless use of a gun.

Mr. Speaker, I rise to speak in opposition to the rule on H.R. 3, The Juvenile Crime Control Act of 1997. As a member of the Judiciary Committee, I have spent a great deal of time over the last 2 months analyzing and debating the problem of juvenile crime. I am sure that my colleagues on both sides of the aisle would agree with that this is a very complex and controversial issue. It is for these reasons that I am disturbed that H.R. 3 was not given an open rule.

There are a number of provisions in H.R. 3 that cause me grave concern. In an attempt to remedy some of the more grievous provisions in H.R. 3, my colleagues and I offered amendments to the Rules Committee. Very few of these amendments—amendments that I believe would have garnered great support, support on both sides of the aisle—were made in order.

In particular, I am troubled that no amendments were made in order addressing the controversial issues of housing juveniles in adult prisons and releasing juvenile records to the public. In partnership with Mr. WATT, I prepared an amendment addressing the problem of housing juveniles with adults. Our amendment required that for States and local governments to be eligible to receive grant funds they must house juveniles who are tried as adults separately from adult inmates in facilities so that they have no contact with adult inmates until they reach 18 years of age.

I also had an amendment which would have ensured that predisposition juveniles would have no contact with adults in prison. My amendment did not address the juvenile who has been convicted of a violent crime. In fact, my amendment attempted to protect those children who have not yet even been found guilty from the dangers of housing them with adults. Without this amendment there is a very real possibility that an innocent child will be mistakenly arrested and suffer in prison in the company of adults.

On any given day approximately 2,400 children are held as juveniles in adult jails. Over the course of a year more than 65,000 children are held in adult jails.

Adult jails, however, are very different from facilities designed for juveniles. In particular, most adult facilities have inadequate rehabilitation programs, health or education programs for juvenile offenders. Most juvenile facilities have a full educational program for incarcerated youth. Juvenile facilities also have additional programs such as exercise and recreation. In contrast, too often, children held in adult jails spend all day sitting in their cells.

Additionally, all available evidence suggests that placing juveniles in adult jails places them in very real and very serious danger. They are at serious risk for rape, assault, and even murder. A 1989 study by Jeffrey Fagan titled "Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy" showed that children housed in adult facilities are five times more likely to be sexually assaulted, twice as likely to be beaten by staff, and 50 percent more likely to be attacked with a weapon than juveniles confined in a juvenile facility.

On April 25, 1996, six adult prisoners murdered a 17-year-old boy while he was incarcerated in the juvenile cellblock of an adult jail in Ohio.

In Idaho, a 17-year-old boy held in an adult jail for not paying \$73 in traffic fines was tortured over a 14 hour period and then finally murdered by other prisoners in his cell.

In Ohio, a 15-year-old girl who had never been in trouble before ran away from home for 1 night. Although she voluntarily returned to her parents, she was put in the county jail by a juvenile court judge "to teach her a lesson." On the fourth night of her confinement, she was sexually assaulted by a deputy jailer.

It is already too easy to find examples of children who have been assaulted or lost their lives needlessly in adult jails. We have a responsibility to act and stop there from being many more.

A third provision in Mr. McCOLLUM's bill that causes me grave concern is that which opens juveniles records to the public. The juvenile justice system was founded on the principle that juvenile offenders are children and as such should not be held to the same standard of culpability as adult offenders. The juvenile justice system has been based on the premise of rehabilitation; to provide the juvenile access to programs and life skills that he or she has not gained in the community. When the juvenile reenters the community he or she is to begin fresh without the public stigma of a criminal record.

H.R. 3, however, requires that in order for States and local governments to be eligible to receive grant funds they must maintain records for any adjudication of a juvenile who is adjudicated delinquent for conduct that if committed by an adult would constitute a felony in a records system equivalent to that maintained for adults who commit felonies. My amendment would have deleted this requirement for both States and local governments and also stated that in the Federal system juvenile records would not be available to the public as required by H.R. 3. Instead, the amendment required that juvenile records be made available only for official purposes.

Like my colleagues, I am very concerned about the rising rate of juvenile crime. I agree that to protect the public from certain of these juvenile offenders law enforcement officials and certain social service organizations must have access to juvenile records. I am convinced, however, that publicly disclosing the court records of juveniles will permanently stigmatize the child at an early age which will follow the child into adulthood; thus, inhibiting efforts to rehabilitate the child as well as the child's future employment and educational opportunities. It seems to me that to burden an already fragile child with this additional handicap is extremely unwise for both that child and for society in general.

I urge my colleagues to vote against this modified close rule and in so doing open the debate on juvenile justice to address a number of the most concerning provisions of H.R. 3.

Mr. SOLOMON. Mr. Speaker, I yield 4½ minutes to the gentleman from Florida [Mr. McCOLLUM] the distinguished chairman of the subcommittee.

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Mr. McCOLLUM. I thank the gentleman for yielding me this time.

Mr. Speaker, I believe tonight as we prepare to vote on this rule, we need to understand this whole process in concept and in construct.

Back a few years ago, we passed some provisions of law here in the Federal arena designed to encourage the States to do what we call truth-in-sentencing. That is, we found that we have people who commit violent crimes that were going through a revolving door and serving only about one-third of their

sentences. They wound up in that situation with a status where they hardly were in before they were out in many cases. They went right back on the streets and were committing violent crimes. While that was primarily State crimes they were committing, we thought an incentive grant program was a good idea and we had a pretty overwhelming majority pass a provision that said that if States pass laws that will require that repeat violent felons serve at least 85 percent of their sentences, then they are going to get a very large sum of money from the Federal Government in the form of a grant program, to construct more prisons with, to help them in the process back home that they need these resources for. We did accomplish that.

In fact, now the national average, because more than 20 States have qualified for this money, not many if any qualified at the beginning, because more than 20 now have gone out and done it, we see that the national average for time served in this country has gone up from a third of the sentence to nearly 50 percent of the time in a violent offense that is served. It is a model for what we are out here trying to do today. We are trying to create another incentive grant to the States that says: States, here is money to spend as you want to fight violent juvenile crime. You can start at the early levels, do what you want to basically with it, more judges, more probation officers or whatever, but if you are going to do that, then we expect you to do the four things we think are really critical to reviving the juvenile justice system to put consequences back in it again. Because we are seeing law enforcement officers not even taking kids before juvenile courts because they do not expect them to get any kind of punishment. If a kid vandalizes a store or spray-paints a building, should that youngster not get some consequences, community service or something for that even if it is the first offense? The answer is clearly yes. Because they do not get consequences, then that bad behavior is more likely to continue. If we do put consequences for those early juvenile delinquent crimes, then we are less likely to get more violent crimes from these juveniles later on. It is common sense. It is what all juvenile court authorities tell us and have told my subcommittee.

So we have put out a little core group of things to qualify to get the money. Then you can spend it as you want to. We are not telling the States how to spend the money, but we are telling the States: Here is a carrot, here is something like we did with the truth-in-sentencing grants, if you do these things, three or four simple things, the primary one of which is to start sanctioning the very first delinquent act and then have graduated sanctions for every delinquent act

thereafter, such as community service and so on, then you can get the money. And if you have the provision that allows your prosecutor, which most States do but not all, allows your prosecutor to try as an adult a 15-year-old or older who commits a serious violent felony, that is important. And, third, we need you to keep records. Records are not being kept the way they should be. We do not know how these juveniles are doing. If they have committed a felony, that has to be a felony and it has to be the second offense. It could have been a misdemeanor spray-painting the house or whatever the first time. Only then. But then if they do and they have committed a felony, then you have got to keep the records and make them available just as you would for adults. And you have got to let judges, the judges do not have to do this, you have got to let your judges hold parents accountable, not for the juvenile delinquent act but when the juvenile delinquent comes before them, for that parent to be instructed by the court: Here is what we want you to do to oversee your child. If you do not do it, you might get a fine or maybe you will do community service. These are the things that are broken nationwide. It is a national crisis. We really need to do it.

We are not doing as some on the other side would say, characterizing this as telling the States what to do. We are trying to create a national interest in this with a little bit of money knowing the States have got to come forward with a lot more resources if juvenile judges in this country are to do the jobs they all want to do and enough probation officers are hired to do it. That is what this is all about.

There are a lot of other things we have to do. We hope someday that families are put back together again. We do not want the situations where we have so many single parents out there and no role models. We want truancy laws corrected, we want more education for our kids, we want to get at the gang problems, we want to do a lot of other things we do not do in this bill. There will be other bills, there are going to be other bills that address those matters as best we can, though many of them frankly have to be addressed in the local communities and money is not the answer to all of them. Volunteer time, organization and effort is. Yes, there are other things. But tonight the one thing we are voting on is a rule that would allow a juvenile justice repair bill to go through to provide incentives to the States.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey [Mr. PASCRELL].

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from New Jersey is recognized for 2½ minutes.

Mr. PASCRELL. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me time on this disapproving rule, on which I rise in strong opposition.

Yes, we need to repair our juvenile justice system, but first we need to get our priorities in order and that is what we should be about. I speak as a former mayor of a large city and now as a Congressman from the Eighth District. While I am pleased that this House is going to take a good look at our juvenile justice system and how we can improve it, the majority is denying us the opportunity to discuss commonsense anti-gun violence efforts as part of this legislation.

Our priorities should be about those young people who are in the galleries listening to us debate this issue, and how we can prevent violence from occurring in our streets. Every day American youths are injured and killed by guns. A staggering 1 in every 4 teenage deaths are gun-related. These numbers do not even take into account the number of crimes committed by juveniles with guns. Few factors have had as direct an impact on the increase in violent youth crime over the last 10 years as have guns. Juvenile arrest records for weapons law violations are up 103 percent since 1985, a rate that is clearly unacceptable to all of us in this room.

This House is only fooling itself if we believe for a second that we can effectively address the issue of youth violence without addressing gun violence. If we are truly serious about making our streets and neighborhoods safer, keeping those young kids safe and alive, we need to get serious and have gun violence addressed in this juvenile bill.

The Democratic substitute that we originally brought to the Committee on Rules would have addressed the gun issue. The real losers under this rule are the millions of Americans who live in fear of violent youth crime, mixed up with gangs and armed to the teeth. The majority is keeping us from implementing commonsense rules.

This is for young people. If we truly love them and wish to protect them, then let us put the amendments before this body.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would advise people sitting in the gallery that they are prohibited from reacting to speeches on the floor.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from New York is recognized for 2½ minutes.

Mr. SOLOMON. Mr. Speaker, we have heard a lot of rhetoric here today. I think the gentlewoman, I believe it was from Texas, made the statement that she was concerned that this bill before us today was going to put chil-

dren in jail. Let me inform the gentlewoman and anybody else in this Chamber that for the last 40 years we have coddled criminals in this country, and we have made it very, very difficult for the people that suffered under those criminals.

What this legislation does is, yes, it does lock up children. Who are those children that we want to lock up under this bill? They are those that are old enough to commit murder and rape and brutal assaults against women and children in this country. They deserve to be in jail. This bill before us is going to send that kind of a message.

There are a lot of myths about this bill. I will include for the RECORD a list of all of those, there are 10 of them, that explain some of the rhetoric that has taken place in this debate.

In closing, let me just say this. Watch for the vote on final passage of this bill and Members will see that all of the talk in opposition to it was a lot of rhetoric, because this bill will pass overwhelmingly, and will send a message to these young rapists and murderers and brutal assaulters of women and children in this country: We are not going to stand for it any longer.

Mr. Speaker, I include the following for the RECORD:

#### TOP 10 DEMOCRAT MYTHS ABOUT H.R. 3 AND THE JUVENILE JUSTICE SYSTEM

##### MYTH 1: PROSECUTORS WILL BE FORCED TO TRY JUVENILES AS ADULTS

H.R. 3 mandates that certain juveniles be prosecuted as adults. Federal prosecutors must choose between prosecuting these juveniles as adults or not prosecuting at all.

FACT: PROSECUTORS HAVE DISCRETION IN EVERY CASE

H.R. 3 allows prosecutors in every instance to either refer a juvenile offender to State authorities, prosecute the offender as a juvenile, or proceed against the offender as an adult. In the case of murder and other serious violent felonies, H.R. 3 includes a presumption that juvenile 14 or older should be charged as an adult, but the prosecutor has the discretion to charge the offender as a juvenile.

##### MYTH 2: JUVENILES WILL BE HOUSED WITH ADULTS

H.R. 3 will allow the federal government to incarcerate juveniles in the same cell with adult criminals. Moreover, juveniles prosecuted as adults will be housed with adults after they are convicted.

FACT: JUVENILES WILL NOT BE HOUSED WITH ADULTS

H.R. 3 explicitly prohibits housing juveniles with adults. There can be absolutely no regular contact between juveniles and adults criminals during any stage of the justice process.

##### MYTH 3: ALL PUNISHMENT AND NO PREVENTION

The Republican approach to addressing the juvenile crime problem is narrow-minded: it focuses solely on punishment and is silent on prevention.

FACT: PREVENTION PLUS

Accountability is prevention: When youthful offenders face consequences for their wrongdoing, criminal careers stop before they start. H.R. 3 encourages states to pro-

vide a sanction for every act of wrongdoing, starting with the first offense, and increasing in severity with each subsequent offense, which is the best method for directing youngsters away from a path of crime while they are still amenable to such encouragements.

Moreover, this bill is only part of a larger legislative effort to combat juvenile crime. The prevention funding in the Administration's juvenile crime bill falls under the jurisdiction of the Committee on Education and the Workforce. That committee will be bringing forth a juvenile crime prevention bill within the next several weeks. In addition, that bill will be a small but significant part of the more than \$4 billion dollars which will be spent by the federal government this year on at-risk and delinquent youth.

##### MYTH 4: H.R. 3 IS BIG GOVERNMENT AT ITS WORST

H.R. 3 takes a one-size-fits-all approach by strictly limiting how localities can spend their grant funds.

FACT: LOCAL GOVERNMENTS HAVE FLEXIBILITY

Under H.R. 3, States and local governments have extensive flexibility. H.R. 3 provides funds to States and units of local government to be used for a wide variety of juvenile crime-fighting activities ranging from building and expanding juvenile detention facilities, establishing drug courts and hiring prosecutors to establishing accountability-based programs that work with juvenile offenders who are referred by law enforcement agencies.

##### MYTH 5: H.R. 3 ATTEMPTS TO MICRO-MANAGE THE STATES

H.R. 3 sends the message that Washington-knows-best: States must do it the federal government's way or no way. H.R. 3 places so many requirements on States in order to receive funding that few States will want to qualify.

FACT: LIMITED INCENTIVES TO ACHIEVE BENEFICIAL REFORMS

Creating incentives for the States to reform their juvenile justice systems is desperately needed. When encounters with the juvenile justice system teach juvenile offenders that they are not accountable for their actions, the system is broken. Never before has there been a greater imperative for the juvenile justice system to be working than now. Too many jurisdictions are held captive by bureaucrats that strictly adhere to the old, discredited juvenile justice philosophy that young criminals are not responsible for their actions. Many Republican governors have put forward juvenile justice reform proposals that have been blocked by liberal legislators. Like our truth-in-sentencing incentive grant program, we can help our allies at the State level to transform America's justice system.

##### MYTH 6: VERY YOUNG OFFENDERS ARE NOT THE PROBLEM

H.R. 3 is over-reaching in that it unnecessarily expands the list of serious violent crimes for which 13 year-olds can be prosecuted. There is no evidence which proves that 12-, 13-, or 14-year-olds are any more dangerous than they were 20 years ago.

FACT: YOUTHFUL BUT DANGEROUS

Juveniles 15 and younger were responsible for 64 percent of the violent offenses handled by the juvenile courts in 1994. Between 1965 and 1992, the number of 12-year-olds arrested for violent crime rose 211 percent; the number of 13- and 14-year-olds rose 301 percent; and the number of 15-year-olds rose 297 percent.

# MYTH 7: THE ADULT COURT SYSTEM IS MORE LENIENT ON JUVENILES

Juveniles tried in adult criminal court are more likely to have their cases dismissed and serve shorter sentences than juveniles referred to juvenile court.

## FACT: MOST JUVENILES ARE HELD ACCOUNTABLE IN THE ADULT SYSTEM

According to GAO, most juveniles prosecuted for serious offenses in adult criminal court are convicted and incarcerated. Barely one-third of juveniles prosecuted for serious offenses in juvenile court are convicted and confined. Juveniles prosecuted in criminal court are subject to the same sentencing guidelines as adult defendants in criminal court. While a few studies show that juvenile property offenders may not receive longer sentences in adult court, several studies show that violent juveniles receive longer sentences in adult criminal court than in juvenile court.

# MYTH 8: VIOLENT JUVENILES ARE ALREADY EFFECTIVELY TREATED AS ADULTS

Juvenile judges are already waiving large numbers of serious violent juveniles into the adult system. H.R. 3 would limit the power of juvenile judges to make these decisions.

## FACT: LEAVING IT UP TO JUVENILE JUDGES IS NOT GOOD ENOUGH

In 1994, only 1.4% of all delinquency cases—the same percentage as in 1985—are transferred to adult court. Juvenile court judges transfer just under three percent of violent juvenile offenders to adult criminal court. For juveniles to be held accountable for their violent acts, prosecutors must have a say in this process!

# MYTH 9: PREVENTION IS RESEARCH-PROVEN

The Republican approach to fighting juvenile crime ignores the fact that prevention is cost-effective and research-proven. After-school programs and drug treatment programs should be included in H.R. 3 since so little is being done in those areas.

## FACT: FEDERALLY-FUNDED PREVENTION HAS PROVEN "INEFFECTIVE"

According to a comprehensive Justice Department-commissioned study published last month, "Recreational, enrichment, and leisure activities such as after school programs are unlikely to reduce delinquency" \* \* \* "Midnight basketball programs are not likely to reduce crime." Programs like it may actually increase the risk of delinquency by combining lower-risk and high-risk students in the same activity and by providing space for high-risk youth to interact.

Moreover, according to the General Accounting Office, the federal government already funds for at-risk and delinquent youth: 21 gang intervention programs, 35 mentoring programs, 42 job training assistance programs, 47 counseling programs, 44 self-sufficiency programs, and 53 substance abuse intervention programs.

# MYTH 10: LESS CONFINEMENT, NOT MORE

We need more prevention and alternatives to incarceration not more detention cells. Juveniles need to be diverted away from a life of crime, not thrown in prison in the prime of youth.

## FACT: JUVENILES ARE NOT HELD ACCOUNTABLE

Because our juvenile justice system is so woefully inadequate, juveniles quickly learn, "I can beat the system." Only 10 percent of violent juvenile offenders—those who commit murder, rape, robbery or assault—receive any sort of institutional "placement out-side the home." The small percentage of juveniles who are placed in confinement for

such violent offenses will be back on the streets in an average of 353 days. Almost half of all juveniles arrested for violent offenses receive probation, fine, restitution, or community service.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 159, not voting 22, as follows:

## [Roll No. 109]

### YEAS—252

Aderholt	Dickey	Johnson (CT)
Archer	Dingell	Johnson, Sam
Armey	Doolittle	Jones
Bachus	Doyle	Kanjorski
Baesler	Dreier	Kasich
Baker	Duncan	Kelly
Ballenger	Dunn	Kim
Barr	Ehlers	King (NY)
Barrett (NE)	Emerson	Kingston
Bartlett	English	Klink
Barton	Ensign	Klug
Bass	Everett	Knollenberg
Bateman	Ewing	Kolbe
Bereuter	Fawell	LaHood
Berry	Foley	Largent
Billbray	Forbes	Latham
Billrakis	Fowler	LaTourette
Bliley	Fox	Lazio
Blunt	Franks (NJ)	Leach
Boehert	Frelinghuysen	Lewis (CA)
Boehner	Galleghy	Lewis (KY)
Bonilla	Ganske	Livingston
Bono	Gekas	LoBlundo
Boyd	Gibbons	Delums
Brady	Gilchrest	Deutsch
Bryant	Gillmor	Dixon
Bunning	Gilman	Doggett
Burr	Goode	Edwards
Burton	Goodlatte	Engel
Buyer	Goodling	Eshoo
Callahan	Gordon	Etheridge
Calvert	Goss	Evans
Camp	Graham	Farr
Campbell	Granger	Fattah
Canady	Green	Fazio
Cannon	Gutknecht	Flake
Castle	Hall (TX)	Foglietta
Chabot	Hansen	Ford
Chambliss	Hastert	Frank (MA)
Chenoweth	Hastings (WA)	Frost
Christensen	Hayworth	Furse
Coble	Hefley	Gedjenson
Coburn	Henger	Gonzalez
Collins	Hill	Gutierrez
Combest	Hilleary	Hall (OH)
Cook	Hobson	Nethercutt
Cooksey	Hoekstra	Neumann
Cox	Holden	Ney
Cramer	Horn	Northup
Crane	Hostettler	Norwood
Crapo	Houghton	Nussle
Cubin	Hulshof	Ortiz
Cunningham	Hunter	Oxley
Danner	Hutchinson	Packard
Davis (FL)	Hyde	Pappas
Davis (VA)	Inglis	Parker
Deal	Istook	Paul
DeLay	Jenkins	Paxon
Diaz-Balart	John	Pease
		Peterson (MN)

Peterson (PA)  
Petri  
Pickering  
Pickett  
Pitts  
Porter  
Portman  
Pryce (OH)  
Quinn  
Radanovich  
Ramstad  
Regula  
Riggs  
Riley  
Roemer  
Rogan  
Rogers  
Rohrabacher  
Ros-Lehtinen  
Royce  
Ryun  
Salmon  
Sandlin  
Sanford  
Saxton

Scarborough  
Schaefer, Dan  
Schaffer, Bob  
Sensenbrenner  
Sessions  
Shadegg  
Shaw  
Sha's  
Sherman  
Shimkus  
Shuster  
Sisisky  
Skeen  
Skelton  
Smith (MI)  
Smith (NJ)  
Smith (OR)  
Smith (TX)  
Smith, Adam  
Smith, Linda  
Snowbarger  
Solomon  
Souder  
Spence  
Stearns

Stenholm  
Stump  
Sununu  
Tanner  
Taylor (NC)  
Thomas  
Thornberry  
Thune  
Tiahrt  
Traficant  
Turner  
Upton  
Walsh  
Wamp  
Watkins  
Watts (OK)  
Weldon (FL)  
Weldon (PA)  
Weller  
White  
Whitfield  
Wicker  
Wolf  
Young (AK)  
Young (FL)

## NAYS—159

Abercrombie  
Ackerman  
Allen  
Baldaacci  
Barcia  
Barrett (WI)  
Bentsen  
Bishop  
Blagojevich  
Blumenauer  
Bonior  
Borski  
Boswell  
Brown (CA)  
Brown (FL)  
Brown (OH)  
Capps  
Cardin  
Carson  
Clayton  
Clement  
Clyburn  
Condit  
Conyers  
Costello  
Coyne  
Cummings  
Davis (IL)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dellums  
Deutsch  
Dixon  
Doggett  
Edwards  
Engel  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Fazio  
Flake  
Foglietta  
Ford  
Frank (MA)  
Frost  
Furse  
Gedjenson  
Gonzalez  
Gutierrez  
Hall (OH)

Hamilton  
Hastings (FL)  
Hefner  
Hilliard  
Hinchey  
Hinojosa  
Hooley  
Hoyer  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jefferson  
Johnson (WI)  
Johnson, E. B.  
Kaptur  
Kennedy (MA)  
Kennedy (RI)  
Kennelly  
Kildee  
Kilpatrick  
Kind (WI)  
Kleczka  
Kucinich  
LaFalce  
Lampson  
Lantos  
Levin  
Lewis (GA)  
Lipinski  
Lofgren  
Lowey  
Luther  
Maloney (CT)  
Maloney (NY)  
Manton  
Markey  
Matsui  
McCarthy (NY)  
McDermott  
McGovern  
McHale  
McIntyre  
McNulty  
Meehan  
Meek  
Menendez  
Millender  
McDonald  
Miller (CA)  
Minge  
Mink  
Moakley  
Nadler  
Neal

Oberstar  
Obey  
Oliver  
Owens  
Pallone  
Pascarella  
Pastor  
Payne  
Pomeroy  
Poshard  
Price (NC)  
Rahall  
Rangel  
Reyes  
Rivers  
Rodriguez  
Rothman  
Roukema  
Roybal-Allard  
Rush  
Sabo  
Sanchez  
Sanders  
Sawyer  
Schumer  
Scott  
Serrano  
Skaggs  
Slaughter  
Snyder  
Spratt  
Stabenow  
Stokes  
Strickland  
Stupak  
Tauscher  
Taylor (MS)  
Thompson  
Thurman  
Tierney  
Torres  
Towns  
Velázquez  
Vento  
Visclosky  
Waters  
Watt (NC)  
Waxman  
Wexler  
Weygand  
Wise  
Woolsey  
Wynn

## NOT VOTING—22

Andrews  
Becerra  
Berman  
Boucher  
Clay  
Dicks  
Dooley  
Ehrlich

Filner  
Gephardt  
Greenwood  
Harman  
Linder  
Martinez  
McKinney  
Pelosi

Pombo  
Schiff  
Stark  
Talent  
Tauzin  
Yates

□ 2028

Ms. DEGETTE and Messrs. FARR of California, OWENS, OBERSTAR, and

BARCIA changed their vote from "yea" to "nay."

Mrs. MORELLA and Mr. MASCARA changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. BONILLA). Pursuant to House Resolution 143 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3.

□ 2030

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3) to combat violent youth crime and increase accountability for juvenile criminal offenses, with Mr. KINGSTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. MCCOLLUM] and the gentlewoman from Texas [Ms. JACKSON-LEE] will each control 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by expressing my appreciation to the chairman of the full Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], my good friend, for his leadership and to the gentleman from Michigan [Mr. CONYERS], the ranking member of the full committee, and the gentleman from New York [Mr. SCHUMER], the ranking member of the Crime Subcommittee, and their staffs for their cooperation in the development of this product that we have out here tonight, H.R. 3. The gentleman from New York [Mr. SCHUMER] in particular has worked very cooperatively on this bill. We disagree on some issues, but we have worked in good faith and have reached as much consensus as possible.

Mr. Chairman, today we begin consideration of one of the most important issues we will tackle in this Congress: The issue of juvenile crime. Every effort we undertake as lawmakers to improve the lives of our fellow citizens, whether it is about education, health care, housing, or flood control, the success of every effort depends upon the existence of an ordered society. If Americans are afraid to walk to the corner grocery store, or must worry about the safety of their children at school, economic growth, or improved education does little good.

The clear truth is, Mr. Chairman, our constituents should be worried. America's juvenile justice system is broken. Violent juvenile crime is a national epidemic, and unless something is done quickly, it will soon get considerably worse.

Listen to these statistics: Offenders under the age of 18 commit more than one out of every five violent crimes in America; that is one-fifth of all murders, rapes, robberies, and assaults. In 1995, they committed nearly 2 million crimes; 18-year-olds committed more murders than any other age group and 17-year-olds, more rapes. Juveniles 15 and younger were responsible for 64 percent of the violent offenses handled by the juvenile courts in 1994.

Here is the really bad news: If these trends continue, juvenile arrests for violent crimes will more than double by the year 2010. The FBI predicts juveniles arrested for murder will increase 145 percent, forcible rape arrests will increase 66 percent, and aggravated assault arrests by 129 percent.

Why? In the remaining years of this decade and throughout the next, America will experience a 31-percent increase in teenagers as the children of baby boomers come of age. In other words, we are going to have a surge in the population group that poses the biggest threat to public safety.

Mr. Chairman, many academics and some in law enforcement fail to recognize the magnitude of this looming crisis. They cite the decline of the rate of violent crime in each of the last 4 years as proof that the fear of crime that permeates society is unfounded.

Yes; the rate of violent crime per capita has gone down, but it is four times higher than it was in 1960. In that year, this country experienced 160 violent crimes per 100,000 people. In 1995, there were 685 violent crimes for every 100,000 people. Last year's 10 percent decline hardly put a nick in this. There is a real danger of immediate and sharp reversal with the teen population boom ready to spring on us in the coming decade.

We are here tonight because the juvenile justice system is unprepared for this coming storm. It is broken, and its failures have contributed to the magnitude of the present problem.

Statistics paint a picture of a juvenile justice system in collapse. The percentage of violent juvenile offenders who are sentenced to confinement has actually decreased in the last 4 years. Only 10 percent of violent juvenile offenders receive any sort of institutional confinement, and that small percentage is back on the street in an average of 353 days. In other words, a juvenile who commits a cold-blooded murder can be walking our neighborhood in less than a year.

Of course, most juveniles receive no punishment at all. Nearly 40 percent of violent juvenile offenders who come

into contact with the juvenile justice system have their cases dismissed. It is not unusual for a youngster to come before a juvenile judge 10 or 12 times before any punishment is imposed. By the time the courts finally lock up an older teen for a violent crime, the offender has a long rap sheet starting in the early teens, or maybe younger. According to the Justice Department, 43 percent of juveniles in State institutions had more than 5 prior arrests, and 20 percent had been arrested more than 10 times.

Perhaps even worse, juveniles who vandalize stores or homes or write graffiti on buildings rarely come before a juvenile court. Police officers seldom see these kids and seldom refer them into custody, knowing there is little chance that they will receive punishment. Kids do not fear the consequences of their actions because they are rarely held accountable, and that is where the rub really lies in this whole situation.

We are looking at a case, for example, of Daniel Doe in Ohio. What is wrong with the juvenile justice system?

At age 12, Danny was arrested for vandalizing a neighbor's house. He had spray painted the walls, wrecked the furniture, and even went so far as to drown the pet bird in the bathtub. At 14 his criminal behavior had escalated to burglarizing an apartment. In the process he beat an elderly resident who died several days later from complications. For this crime he was convicted of involuntary manslaughter.

Danny then entered the adult criminal justice system at the age of 19 when he brutally beat a middle-aged woman in the act of burglarizing her home. He was sentenced for his crime, but by that time his juvenile arrest record had been erased. For the second time in the eyes of the law, Danny was treated as a first-time offender. The judge, ignorant of his violent past, gave him probation. Danny then went on to beat an elderly man to death in yet another burglary 2 months later.

Who knows how many earlier minor crimes were not referred by police or adjudicated without punishment? Could Danny's life of violent crime have been prevented by an effective juvenile justice system? I would submit that perhaps it could have been.

Crimes committed by juveniles are primarily handled by the States, but the collapse of the system has created a national crisis. Congress needs to provide incentives to the States to stimulate a core of critically and urgently needed repairs of the juvenile justice system, just as it did 2 years ago when faced with violent adult criminals who were serving about a third of their sentences. Congress then enacted a truth-in-sentencing grant program offering money for prison construction to States which change their

laws to require violent offenders to serve at least 85 percent of their sentences. More than 20 States have now done so, and the average time served nationally is approaching 50 percent.

A similar grant program is at the heart of H.R. 3, the Juvenile Crime Control Act of 1997, before us tonight. It is \$1.5 billion over 3 years that would be provided in this bill to States and local communities to hire more juvenile judges, probation officers or prosecutors, construct juvenile detention facilities or whatever they decide they need to improve their juvenile justice system. To qualify for a grant, a State would have to assure the Justice Department that it has accomplished four core reforms.

First, there must be a sanction such as community service for the very first act of juvenile delinquency and graduated sections for each delinquent act thereafter. Police and prosecutors must take young vandals before juvenile courts, and judges must impose punishment. If kids see the consequences to their early delinquent acts, far fewer will evolve into violent criminals.

Next, the State must ensure that prosecutors have the discretion to prosecute as adults juveniles 15 and older who commit serious violent crimes. Such teenagers need to be locked up for a long time, the same as violent criminals 18 and older.

Third, States must establish a recordkeeping system for juveniles adjudicated delinquents. This system would ensure that the records of any young offender adjudicated a delinquent two or more times are treated for the purposes of maintenance and availability the same as adult criminal records if the second offense or a later one is a felony. Today's common practice of keeping juvenile records sealed and erasing them when a juvenile reaches 18 must be stopped for those who are repeat violent offenders.

Last, State law must not prevent a judge from holding parents accountable, not for the delinquent act of the child, but for fulfilling a responsibility directed by the court at the time a sanction is imposed on a juvenile for a delinquent act. Juvenile judges must be given the authority to fine or otherwise sanction parents for not following court orders designed to force a parent to act responsibly in overseeing a child's behavior.

Without these core reforms and without an infusion of dramatically greater resources by the States to match the Federal funds, juvenile justice systems of our Nation cannot be revived. There are many things that need to be done to fight juvenile crime, but none are more critical than repairing our juvenile justice system.

The second thing this bill does is to establish a model Federal system for holding juveniles accountable for their

crimes. These model procedures are designed to give prosecutors the control they need to protect the public, to give judges the authority they need to impose meaningful sanctions against all juvenile offenders, and to hold parents of juveniles responsible for supervising their children and to give law enforcement officials the records they need to know the criminal history of young criminals much like we are asking the States to do if they qualify to receive the block grant money under this proposal.

Under these procedures, no juveniles will be in prison with adults. Under current law, which is unchanged by this bill, all juvenile prisoners must be separated from adults. To those who say otherwise, I say read the bill. The committee rejected two provisions from the President's bill which would have loosened this standard.

Third, H.R. 3 enhances the Federal Government's tools for targeting, in limited situations, the most dangerous juvenile criminals. This bill is not a takeover of juvenile justice. It does not expand Federal authority. But when Federal enforcement is needed such as when State and local law enforcement officials are overwhelmed by violent street gangs, this bill will make Federal law enforcement more effective in protecting the public.

Finally, Mr. Chairman, let me briefly touch on the issue of prevention. We will hear a lot from the other side about prevention and the perceived inadequacies of this bill in the area of preventing crime. Well, I have three brief responses to this concern.

First, when there are real consequences for juvenile crimes, and when there are these real consequences, particularly crimes committed by younger offenders, we can stop criminal careers before they have a chance to get started. In other words, holding juveniles accountable is prevention.

Second, we must all remember that this bill is only a part of a larger legislative effort to deal with juvenile crime. The prevention funding in the administration's juvenile crime bill is in the jurisdiction of the Committee on Education and the Workforce. That committee will be bringing forth a juvenile crime prevention bill within the next several weeks. That bill will be a small but significant part of the billions of dollars that will be spent by the Federal Government this year to prevent crime.

Third, I still support the funding for block grants passed in the Contract With America that are now being used by local governments for crime prevention and supportive law enforcement. I will be working with appropriators to find the funds necessary to support both the juvenile justice grants in this bill and the more general purpose public safety block grants that were

passed in the last Congress as a part of the appropriations process.

So Mr. Chairman, I look forward to the debate on this bill. I urge my colleagues to support H.R. 3 and begin the process of repairing America's collapsed juvenile justice system.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, when we started this process, I recognize that the gentleman from Florida sought out a great deal of data. As I have indicated earlier in my discussions on the floor regarding juvenile crime, it would really be nice if this was a bipartisan effort. But obviously, H.R. 3 is not a bill that addresses the question of juvenile crime prevention and real solutions.

Today, in a hearing before the Committee on the Judiciary, we heard from the Concerned Alliance of Men. It so happens that they say they cure crime, violent crime among youngsters, with a hug. Many of us would look at this in a very skeptical manner, but if my colleagues heard those gentlemen today, they would realize that we can prevent juvenile crime. We can prevent it with targeted efforts toward recognizing that prevention is important.

I asked the chairman why prevention and prevention efforts cannot be in this juvenile crime bill proposed by the Committee on the Judiciary. We have done it before. We did it in the 1994 crime bill. It worked.

This legislation will not make us safer but only divert attention from real and more difficult solutions. We need a balanced approach that encompasses both punishment and prevention. The juvenile justice systems were first established in the United States at the turn of the century, to emphasize rehabilitation for youthful offenders.

Today's youth may or may not be more troubled than in the past, but a system that treats juveniles differently than adults seeking through a combination of measured punishment treatment and counseling, to divert them from destructive paths and keep them within the fold of responsible law-abiding citizens still is an important and real approach in which we should go.

□ 2030

To be sure, violent and dangerous youth must be prevented from inflicting additional suffering. But the chairman recognizes that as the Judiciary Committee traveled across the country, it is well known that the bulk of juvenile crime falls within a small number of States.

We have good kids in America. Those that need help need it by way of counseling, prevention, and other means other than locking up juveniles with adults. We do not need to hear about

six adult prisoners who murdered a 17-year-old boy while he was incarcerated in a juvenile cell block in an adult jail in Ohio. Do we need to hear about, in Idaho, a 17-year-old boy held in an adult jail who was tortured and then murdered by other prisoners; or in Ohio, a 15-year-old who was raped while she was incarcerated? Why do we not have an amendment that separates adults from juveniles?

Recognizing that the Rand Corp. is not the most liberal think tank in this country, it has recently issued a report demonstrating that crime prevention efforts aimed at disadvantaged kids are more effective than tough prison terms in keeping our citizenry safe.

Then, what about the trigger lock? What an interesting approach H.R. 3 takes by refusing to stand up to the National Rifle Association, when 80 percent of Americans say a trigger lock is a valid approach to preventing juvenile crime. It does not seem to make sense. It does not seem that we are on a balanced approach.

The 1994 crime bill authorized funding for numerous juvenile prevention programs, as I said earlier. Since Republicans gained the majority, we have spent not a single cent for prevention. It seems we have missed the boat. We have missed the trigger. We have missed our direction. We are misguided. Rather than with a hug, recognizing that we can save more children with prevention, we now have on the floor of the House H.R. 3, in total disregard of all of the current knowledge that we have, and the body of law and the body of knowledge that says we can save our children with a better approach, more prevention.

Mr. Chairman, I rise to voice my concerns regarding H.R. 3, the Juvenile Crime Control Act of 1997. As a member of both the Judiciary Committee and the Democratic Caucus's Juvenile Justice Task Force, I have spent a great deal of time over the last months analyzing, discussing and debating this bill and I find the bill very troubling.

I want to say first that I agree that the enormous rise in the rate of juvenile crime is a serious problem that we, in this Congress, must address. I recognize that those persons who commit the most heinous crimes, be they juveniles or adults, must be punished. I am concerned, however, to see this bill focus on harsher penalties for juvenile offenders rather than addressing the reasons that so many children turn to crime in the first place. It seems to me that the failure to address these underlying reasons is terribly short-sighted. If we really hope to solve this problem and to reduce violence, we must address both parts of the equation—prevention and punishment.

Most public policy analysts confirm that early prevention programs offer the best hope to stem juvenile crime. They emphasize the importance of better schools and more job training, recreation and mentoring programs. Such initiatives provide children with positive role models and increase economic opportunities.

H.R. 3 allows children as young as 13 years old to be tried in adult court. Evidence, however, suggests that children tried as adults have a higher recidivism rate than comparable children tried as juveniles. Children tried as adults reoffend sooner, commit more serious offenses, and reoffend more often. For example, in Florida which pioneered mandatory waiver of juveniles into adult courts in the early 1980's, a recent study compared the recidivism rate of juveniles transferred to the adult criminal courts with those kept in the juvenile system. The study concluded that youths tried as adults commit even more crimes after release than do those allowed to remain in the juvenile system. Another study, comparing New York and New Jersey juvenile offenders, shows that the rearrest rate for children sentenced in juvenile court was 29 percent lower than the rearrest rate for juveniles sentenced in the adult court system.

There are a number of other provisions in H.R. 3 that I find disturbing such as that allowing juveniles to be housed predisposition in prison with adults and that making juvenile records available to the public.

Housing of juveniles in adult prisons places them in very real and very serious danger. A 1989 study by Jeffrey Fagan titled "Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy" shows that children in adult institutions are five times more likely to be attacked with a weapon than juveniles confined in a juvenile facility. This fact is evidenced by a number of cases. On April 25, 1996, six adult prisoners murdered a 17-year-old boy while he was incarcerated in the juvenile cell-block of an adult jail in Ohio. In Idaho, a 17-year-old boy held in an adult jail was tortured and finally murdered by other prisoners in the cell. In Ohio, a juvenile court judge put a 15-year-old girl in adult county jail to teach her a lesson. On the fourth night of her confinement, she was sexually assaulted by a deputy jailer.

There are already enough tragic stories to document the ill-advised policy of housing juveniles with adults and in adult prisons. Do we really want to place more children in such a position of danger?

With respect to the release of juvenile records to the public, I am again troubled. The juvenile justice system was founded on the principle that juvenile offenders are children and as such should not be held to the same standard of culpability as adult offenders. The juvenile justice system has been based on the premise of rehabilitation; to provide the juvenile access to programs and life skills that he or she has not gained in the community. When the juvenile reenters the community he or she is to begin fresh without the public stigma of a criminal record.

I agree that to protect the public from certain of these juvenile offenders law enforcement officials and some social service organizations must have access to juvenile records. I am convinced, however, that publicly disclosing the court records of a juvenile will permanently stigmatize the child at an early age which will follow the child into adulthood; thus, inhibiting efforts to rehabilitate the child as well as the child's future employment and educational opportunities.

H.R. 3 is a flawed, one-sided piece of legislation. It focuses our energy and attention ex-

clusively on only one-part of what is a complex problem. We must pursue a more balanced approach. If we are truly serious about stemming the tide of juvenile crime—and I do not doubt the sincerity of everyone in this body on that question—we must provide both punishment and prevention. The answer to the juvenile crime problem will not be found in the building of more prisons or the imposition of harsher sentences. We will only be successful in our battle against this crisis when we stop the creation of these young criminals.

Mr. Chairman, I share the concern about the problem of juvenile crime that led to H.R. 3. I do not, however, share H.R. 3's vision of a solution to this problem and I urge my colleagues to vote against H.R. 3.

Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. WATT], a very active and strong proponent of the issues we are discussing in this bill.

Mr. WATT of North Carolina. Mr. Chairman, for the first time in this House I am going to speak from the Republican side, because I want to remind my Republican friends of a few things.

Mr. Chairman, let me put this bill in historical perspective. Go back through the whole history of America. At the Federal level, we have never, ever had a Federal juvenile judge. Never have we had a Federal juvenile probation officer. Never have we had a Federal juvenile facility.

The reason for that is that all throughout our history, juvenile justice has been a matter of State and local law. Yet, my conservative Republican colleagues all of a sudden have decided that we are going to federalize juvenile justice in this country. We do not even do a good job of criminal justice for adults, yet we are going to federalize and tell the States what they are going to do in the arena of juvenile justice.

Mr. Chairman, something is wrong with that. Something is also wrong with the fact that only 11 States, at most, will be eligible for any kind of grant under this bill. My State, where one-fifth of the juveniles have been tried and convicted and incarcerated as adults, in the whole United States the State of North Carolina still will not be eligible for funds under this bill. Why? Because we do not have open juvenile records; because our judges decide who gets prosecuted as an adult if they are a juvenile, not our prosecutors deciding it. We do not have a law that holds parents, sanctions parents if they do not closely supervise their children.

Three out of the four requirements to get funds under this bill we do not meet in North Carolina. We have the most aggressive juvenile justice system in America in North Carolina. Guess what States qualify for funds under the bill? The principal sponsor, his State qualifies. I would encourage all of us to look at what States qualify and defeat this bill.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to acknowledge there are provisions that require a State to qualify. I would doubt very many States technically qualify right now, because the purpose of the grant program the gentleman from North Carolina is talking about, the heart of this bill, is an incentive grant program to get the States to repair their broken criminal justice system.

The idea here is that we are attempting to get the States to move in the direction of doing things that are not very hard for them to do. I think 25 States, and I do not know that my State of Florida qualifies, the gentleman says the Justice Department says so, but I do not see that they do, because I do not see the courts sanctioning those early juvenile delinquent acts. I do not see them taking the first juvenile delinquent act in every case and giving some sort of punishment to it. I do not see the police referring the cases there. I do not think that happens in any State. But it is not hard to get there. The laws do not have to be changed, the States just have to start doing it.

In the case of the prosecutions with regard to adult offenses, very easy; all they have to do is give the flexibility to the prosecutors. They do not have to prosecute 15-year-olds and older that commit violent felonies as adults.

The recordkeeping requirements are easy to enact, and the question of allowing judges, I think most States probably do, but maybe a few do not, juvenile judges to hold parents accountable for things the judge charges them to do, very easy to qualify. But technically I suspect every State is not qualifying right now, but they are given a year to do that. That is the reason, the *raison d'être*, for the existence of this bill; to repair, to encourage the States with a carrot, not a stick, to repair the broken juvenile justice system of this Nation.

I will yield to anybody saying that this is a primarily State function, not a Federal function, but we have a national crisis, and we need to do that.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I thank the gentleman for yielding, Mr. Chairman.

Is it not ironic that the gentleman's State qualifies, and no other State in America qualifies?

Mr. McCOLLUM. Mr. Chairman, if I can reclaim my time, the gentleman said it did. I do not know that any qualify. I do not believe Florida qualifies.

Mr. WATT of North Carolina. What good is the bill if no one qualifies?

Mr. McCOLLUM. Florida does not qualify, in my opinion.

Mr. COBURN. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Oklahoma for the purposes of a colloquy.

Mr. COBURN. Mr. Chairman, I thank the gentleman for yielding.

The purpose of this colloquy is to discuss the grant program under the provisions of H.R. 3, and to ask the chairman as to his consideration for the youth challenge programs as presently run by the National Guard. There are 15 of them, and they have done a wonderful job in terms of improving the opportunities for young people.

There have been now over 30,000 young people go through that program. There is only one now incarcerated in the entire United States that has worked through that program. It is one of the Government programs that is effective, that works, that restores self-respect, restores dignity, and restores responsibility in young people that are at risk.

My question, Mr. Chairman, is will these youth challenge programs in the State of Oklahoma and other States qualify under this bill for the grant, the block grant moneys?

Mr. McCOLLUM. Mr. Chairman, I would say to the gentleman, yes, they would qualify. The local communities make that decision.

On page 24 of the bill, item number 11, it says one of those things for which they would qualify is programs establishing and maintaining accountability that work with juvenile offenders who are referred by law enforcement agencies or which are designed in cooperation with law enforcement officials to protect students and school personnel from drug, gang, and youth violence. So it would qualify under these provisions, in answer to the gentleman's questions.

Mr. COBURN. Mr. Chairman, I thank the gentleman.

Mr. WATT of North Carolina. If the gentleman will yield further, Mr. Chairman, the gentleman's State is going to have to do all these crazy mandatory things before this challenge thing is going to give him a dime worth of money.

Mr. McCOLLUM. Mr. Chairman, reclaiming my time, there are no crazy mandatory things in this bill. There are four core things that I have reiterated several times over tonight that the State must do to qualify for an incentive grant. We have lots of Federal grant programs out here in many areas on the books today which have far more restrictive elements in it than this does.

Democrats, on their side of the aisle, for years they have had all kinds of restrictions on how to spend money, how they spend money on various programs when they get it. We do not restrict that to any degree here. What we restrict is the qualifiers that have always

been imposed in enormous numbers by the other side of the aisle.

Now tonight they are out here complaining about the three or four little things we want to have done to repair the juvenile justice system to qualify for Federal grant programs to repair that system.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. SCOTT], a former member of the Subcommittee on Crime, and a strong and knowledgeable person on these very vital issues.

Mr. SCOTT. Mr. Chairman, I thank the gentleman from Texas for yielding time to me.

Mr. Chairman, we know how to reduce crime. We know what works. We know what does not work. Studies have shown that Head Start, Job Corps, drug rehabilitation, truancy prevention, those kinds of programs that give young people constructive things to do with their time and adult interaction, those that increase their education and job opportunities, those are the kinds of things that work. Job Corps, Head Start, and others have been shown to save more money than they cost by reducing crime and reducing future welfare expenses.

Mr. Chairman, we know what sounds tough and does not work. We know that the sound bite—if you do the adult crime, you do the adult time—we know that if you treat more juveniles as adults, all of the studies show that the crime rate, the violent crime rate will go up if we codify that sound bite.

We know mandatory minimums have no deterrent effect on juveniles, because they do not make those kinds of calculations. They act impulsively. So we know what works, we know what does not work. We also know that when we say we are not tough, we have to recognize that we are already jailing more people in America than anywhere else on Earth. We have some communities that have more young people locked up in jails than they have in college.

We know that more money in prisons cannot possibly have, since we lock so many people up already, cannot possibly have an effect on the crime rate. So it makes no sense, waiting for the children to mess up and then lock them up, when it is cheaper to invest in crime prevention programs and prevent them from getting in trouble in the first place.

For example, the Rand study shows that parental training, the money put into that program, is three times more cost effective than the three-strikes-and-you-are-out, good, tough-sounding sound bite.

So we have today's bill, with the major provisions—treat more 13-year-olds as adults, and more young people treated as adults—proven to increase

violence; more exposure to mandatory minimums constantly, with no effect or deterrence; more money for prisons that cannot possibly do any good, since most States are already spending more in prisons than they are in higher education. Those are the kinds of things that do not make any difference at all.

So we have a choice. We can pass this good-sounding but ineffective bill, or we can defeat the bill and focus our attention on proven, cost-effective initiatives which will actually reduce the crime rate and make our streets safer.

I would hope we would defeat the bill, Mr. Chairman, and focus our attention where it can do some good.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself 20 seconds.

Mr. Chairman, the gentleman from Virginia [Mr. SCOTT] has just made a valid point. Let me simply share for the RECORD, the average cost of incarcerating a juvenile for 1 year is between \$35,000 and \$64,000 a year. In contrast, Head Start costs \$4,300 per child.

Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Ms. LOFGREN], who has been an active participant on this and the Juvenile Task Force.

Ms. LOFGREN. Mr. Chairman, we think about juvenile delinquency, and we know it is a serious problem in our country. I think it is very easy for us to lose our way, however, because we do not, as a country, often make the distinction between what we need to do for justice compared to what we need to do for public safety. The two are not always the same.

For those who have been victimized by crime, there is never a fair answer. But we do know that victims of crime seek justice. They seek to be made whole. They seek punishment for those who did harm to them or to a loved one.

□ 2100

That is a human emotion that we all feel and share, and our hearts go out to victims of crime. However, punishment does not always mean that we will have a system that keeps us safe. Our job as legislators is to acknowledge and to provide for victim's need to have justice in the system, but in a more generic way to take thoughtful, accountable, cost-effective steps to prevent more victims from being created, and to make sure that we have a safe society.

The problem with H.R. 3 is that it takes \$1.5 billion and puts it into systems that have not worked instead of putting it into systems that will keep us safer. We know when we look at the Federal aspects of the bill that it is very extreme. Automatic trial of 14-year-olds without judicial review who are alleged to have committed certain offenses will not make us safer.

When we look at the system put in place for the States, we have already

heard the comments that most States will not be eligible for funds. We also have received a communication today from the National Conference of State Legislatures pleading with us to oppose the mandates that are embodied in H.R. 3.

We know that an ounce of prevention is worth a pound of cure. We should listen to the Nation's police chiefs. Nine out of ten of the police chiefs of America, in a recent survey, say that America could sharply reduce crime if government invested in some early prevention programs. Police chiefs picked investments in kids by a 3 to 1 margin over other alternatives, including treating and trying juveniles as adults.

So, yes, let us hold young kids accountable when they need to be. There are some teenagers who need to be tried as adults, who need to be held to adult standards. Our system provides for that, and it should. But if we do only that, if we neglect the thousands and millions of young people who are starting to go off track right now, we will never get ahead of this problem and we will do a disservice to public safety.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. STUPAK], an ex-police officer who knows about prevention.

Mr. STUPAK. Mr. Chairman, we have a substitute that will be offered tomorrow which is a tough bill, it is smart and it is balanced.

The bill put forth by the majority party tonight is not smart and it is not balanced and its toughness only comes from trying to lock up young people. We have a carrot, says the majority. That carrot is based upon 197 juveniles that we have in the Federal system. Of those 197, 120 are Native Americans.

So we have 77 juveniles and we are using these 77 juveniles to be the carrot for the 300,000 juveniles that are around the States. So we tell them we have these certain incentives, these certain carrots, and therefore if they do what we tell them to do, we will make available \$1.5 billion to punish young people.

The National Conference of State Legislatures wrote to all of us today and said the bill is an unfunded mandate. The Federal Government is now going to apply, and I will quote, "new rules nationwide regarding juvenile records, judicial discretion, parental and juvenile responsibilities; these present new obstacles for the States that need Federal funds." And, therefore, they oppose the bill. The State legislatures, the council oppose the bill.

What have you done? You give zero money for early intervention, zero money for detention, zero money for prevention, and instead you want to try 15-year-old kids as adults with the option of trying 13-year-old kids as

adults and you say that they got to do what Congress says; if not, they get no money. Only 12 States will get money; well, maybe 11. My State of Michigan will receive no money.

You say you do not know what is in there. Your own report from the conference, your own report from your committee, the majority and minority report lists the 12 States. Thirty-eight States plus the District of Columbia cannot partake in this bill. And this is a balanced approach to law enforcement?

You say you are going to get tough because if you get tough, you will stop crime before it starts. Well, I was a cop. I was there. The old ways do not work. If we continue down your way of locking up every kid who steps out of line, we cannot arrest our way out of this problem. We are going to lose a whole other generation of young people. We will lose a whole other generation of young people as we are trying to be tough, and we have this carrot based on 197 juveniles who are in the Federal system, 197 juveniles.

If we take a look at the bill, your bill does not address what the communities need. Communities have come to us and said, give us flexibility. Let us work with our own communities. The problems in northern Michigan are much different than the problems in Florida or L.A. or Boston. They need flexibility. They do not need more Federal mandates.

Mr. Chairman, I will submit the letter the National Conference of State Legislatures addressed to Members of Congress in opposition to H.R. 3.

Mr. Chairman, I include for the RECORD the letter from which I quoted:

NATIONAL CONFERENCE OF  
STATE LEGISLATURES,  
Washington, DC, May 7, 1997.

DEAR MEMBER OF CONGRESS: We are writing to express our opposition to mandates in H.R. 3, the Juvenile Crime Control Act of 1997. Mandates in existing law require that states deinstitutionalize status offenders, remove juveniles from jails and lock-ups, and separate juvenile delinquents from adult offenders. Under H.R. 3, the federal government would apply new rules nationwide relating to juvenile records, judicial discretion and parental and juvenile responsibility. These present new obstacles for states that need federal funds.

States are enacting many laws that attack the problem of violent juvenile crime comprehensively. Many have lowered the age at which juveniles may be charged as adults for violent crimes; others have considered expanding prosecutors' discretion. Without clear proof that one choice is more effective than the other, Congress would deny funding for juvenile justice to states where just one element in the state's comprehensive approach to juvenile justice differs from the federal mandate.

The change of directions ought to make Congress wary of inflexible mandates. For example, until federal law was changed in 1994 states were forbidden to detain juveniles for possession of a gun—because possession was a "status" offense. The federal response was not merely to allow states to detain

children for possession, but to create a new federal offense of juvenile possession of a handgun. (Pub. L. 103-322, Sec. 11201). The advantage of states as laboratories is that their choices put the nation less at risk. This bill would make the nation the laboratory.

NCSL submits that the proposed mandates, however well-intentioned, are short-sighted and counter-productive. We urge you to strike the mandates from H.R. 3.

Sincerely,

WILLIAM T. POUND,  
Executive Director.

Mr. McCOLLUM. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, in response to what the gentleman has just said, I am sure there are some legislatures and maybe the whole council, as he has said, who do not want to see this passed because they do not like anything that we put out there in the way of a carrot, if you will, or an incentive in a grant program. They did not even like the prison grant program we put out a couple years ago. I do not know if there are many Federal programs that go out there without anything attached to them saying they have to do something to qualify to get the money.

The truth of the matter is, we held 6 regional crime forums in the last two years, the Subcommittee on Crime, around the country where we invited every State's attorney general to help us get together juvenile judges and probation officers and people who worked in the juvenile justice system to hear what the problems were, to understand what was really wrong out there. And they all said to us, there is a crisis, there is a problem. It is beyond the scope of what we can do here at home. We are not getting the legislatures of the States to respond to us. We do not have anybody lobbying for us. Please help us.

Mr. Chairman, I yield 5 minutes and 15 seconds to the gentleman from Arkansas [Mr. HUTCHINSON], a member of the subcommittee.

Mr. HUTCHINSON. Mr. Chairman, I rise in strong support of H.R. 3, the Juvenile Crime Control Act of 1997. As a former Federal prosecutor and, more importantly, as a parent of a teenager, I want to express my thanks to the gentleman from Florida, the chairman of the Subcommittee on Crime, for his important work on this issue.

I have to be honest, Mr. Chairman, that I had some reservations about this bill in the beginning, but I read the bill, I studied the bill. And after hearing the testimony in committee and the concerns of law enforcement and the statements of professionals who deal with the juvenile issues, I am convinced that this bill will improve, first of all, our Federal system of handling juveniles and, secondly, it will encourage the States to enforce accountability in their dealings with juvenile crimes.

Before I get into the substance of the bill I want to take a moment and con-

gratulate our States and localities and our cities on the work that they are doing on this important issue. A number of State legislatures have recognized a growing threat of juvenile crime and have taken swift action to crack down on the serious offenders.

However, there is still work to do and there are many jurisdictions that have not taken that action. This bill sets out a model program for States to follow, and this is important, if they so choose. Contrary to what some reports have indicated and what some have said, nothing in this bill imposes mandates on the States. Participation in the block grant program is entirely voluntary and changes in the law only apply to the Federal courts. It is not an unfunded mandate by any means.

The bill itself provides a great deal of flexibility to the States as they set about to reform juvenile crime procedures. The block grant provisions provide significant resources to the States and localities to fight juvenile crime.

Just this day I received a request from the prosecuting attorney of Washington County, Fayetteville, AR who is a Democrat-elected prosecuting attorney. He says that juvenile crimes are on the upswing in this country and funds are badly needed to assist our juvenile deputy prosecutors and to fund programs that attempt to stop juvenile crime before it occurs, and he asks support for this bill.

So it is important for the States that they have this flexibility, that they have the opportunity for these funds.

The block grant is to be used for a wide variety of purposes, leaving discretion at the local level who are on the front lines. What works in New York City may not work in northwest Arkansas. Law enforcement officials in each locality must have the discretion and the latitude to design their own crime-fighting plan, and this bill allows that flexibility to exist.

I did have a couple of concerns on the bill that were addressed very clearly in the committee, and the chairman was very cooperative in addressing my concerns. One was on the issue of juvenile records. Under the original bill, juveniles who were adjudicated as delinquents would have their records made public in the same manner as adults. This was amended during the committee process, very importantly, so that now a first-time offender, a one-time offender will maintain those records as confidential as a juvenile delinquent.

But repeat offenders are a different story. The second time around as a juvenile delinquent, their records will become available for public scrutiny, and I do believe this is an important change. In Arkansas we will have to change the law to a certain extent, but I believe it is a positive change.

The second concern centered on the criteria the States must meet for the

block grant programs. One of the benchmarks of the block grants would be that the States would have to assure that juveniles age 15 and older are treated as adults if they commit, not any crime, but a serious violent crime, and also that the prosecutor has the authority to determine whether or not to prosecute such juveniles as adults.

Again, my reading of the bill, and I have talked to the chairman of the Subcommittee on Crime about this, is that in Arkansas there would be no need for change in legislation because the prosecutor has the discretion whether to file charges as an adult or as a juvenile. The court does have an opportunity to review that decision if a proper motion is made, but the prosecutor has the initial discretion whether or not to file charges in a serious violent crime case.

So I think those changes made the bill better. I think it is a very good bill. It gives flexibility to the States and it allows the States to adopt programs with funds available for them that will really meet the needs of juvenile crime, as was indicated by the Democrat prosecutor from Washington County who asked me to support this today.

Mr. Chairman, I believe that this is a good bill. In closing, let me emphasize that the prosecution of juveniles as adults under this bill is reserved for only the most heinous offenders, commission of serious violent crimes and serious drug offenses. They must carry appropriate punishment. This legislation goes a long way toward fixing a system that fails to hold juveniles accountable for their actions. I am very pleased to support it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself 15 seconds to say that it is clear 38 States will not be able to participate under this legislation. Thirty-eight States with millions of children will be deprived of having the opportunity to prevent juvenile crime and rehabilitate our children.

Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island [Mr. KENNEDY], who has had a constant interest in the area of juvenile law and juvenile crime.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I thank the gentlewoman from Texas for yielding me the time. I would like to also add from the outset that my State is among those 38 States that cannot even begin to access any of the funds under this bill. I might add it just shows how this bill is not a serious bill, because if it was serious in trying to change the effect of juvenile crime, it would certainly address the fact that it ignores 38 States of these United States from having access to the funds in this bill to do the kinds of things that our States feel make a difference in reducing crime.

□ 2115

I just want to make one statement, a simple statement about this bill, and

that is it does nothing, nothing to solve the problems that we are facing in juvenile crime and, in fact, it makes the problems worse.

The facts show that we have a problem here. The facts show that kids sentenced to adult facilities have a higher recidivism rate than those sentenced to juvenile detention centers. Guess what this bill wants to do? It wants to send more of them to adult facilities. In essence, this bill is ignoring the facts.

Second, the facts are that these kids will face shorter sentences. Because as I said earlier, judges, when faced with a teenager versus a hardened criminal, guess what the judge is going to do? They will not give them nearly the sentence they would otherwise get in the juvenile court. Guess what this bill does? Ignores the facts and sends the kids to adult jails where they will not be given the harsh sentences where those kids might need it.

Third fact. These kids, if they are sent to the adult facilities, and as I said the sentences are shorter, they will come out meaner than we ever could have imagined them ever ending up if we had sent them to a juvenile center. And anybody listening to this program tonight on C-SPAN will understand me when I tell them that sending teenagers to adult correctional systems as the means to reduce recidivism, when we know the recidivism rates are higher amongst kids that go to the adult correction systems, give me a break.

I want to add one more thing. It is scandalous. I say it is scandalous that we have minorities, African-Americans, that constitute 15 percent of our population, and guess what? They constitute 72 percent, I say to the gentleman from Florida, 72 percent in our juvenile system. What does the gentleman's bill do about that?

We passed a law in this Congress in the early seventies that dealt with it. It was called the Office of Juvenile Justice and Delinquency Prevention. And one of the mandates of that legislation was to say this country ought to address the problem that 15 percent of our population is being incarcerated at the rate of 72 percent. It is scandalous. It is scandalous. And the gentleman's bill does nothing, I repeat, nothing, but exacerbate that problem.

This Congress, with statistics like that, should turn the other way and think again before we adopt a bill that, as I said, ignores these fundamental facts.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. MCCARTHY], who has firsthand knowledge on some of these very vital issues.

Mrs. MCCARTHY of New York. Mr. Chairman, I rise in opposition to H.R. 3. This juvenile justice debate is personal and emotional to me because it is a debate about saving lives.

As I visit schools in my district in New York and talk to the kids in grade school, middle school and high school, I hear firsthand that they are sick of living in fear of violence.

In order to reduce violence and save lives we have to effectively attack juvenile criminals. H.R. 3 does not effectively address basic juvenile crime issues. Rather, the bill before us tonight is a collection of overly prescriptive, top-down, Washington-knows-best mandates.

Furthermore, the legislation completely fails to address the gun issues, and we cannot seriously discuss juvenile crime without the gun epidemic facing this country.

In order to save lives we have to allow our States and local governments to utilize programs that they know work best. This bill will not even let New York take advantage of the money that we need. This legislation ties the hands of local judges and prosecutors. If our State and local governments want to access badly needed Federal funds, they must submit to certain requirements in this bill.

Unfortunately, statistics show that the prescriptions that we are forcing down our local governments' throats may not be the best option for local crime problems. In fact, recent success in local communities such as Boston may not even qualify for Federal funding under this bill.

Under this bill, Congress is saying, We will take your tax dollars but you cannot take them back. It does not matter if you have already committed to saving kids' lives by getting tough on juvenile crime, you have to do what we say or else you will not get your hard-earned tax money back. That is wrong.

There is another important personal issue for me that has been completely left out of this bill. We have taken a pass on the high priority issue of reducing gun violence. The sponsor of this bill states that we can wait for a while and deal with this issue later. I rise to say that we cannot wait. Juvenile justice is about saving lives, and I support certainly not this bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I will inquire again on the time, please.

The CHAIRMAN. The gentlewoman from Texas [Ms. JACKSON-LEE] has 9½ minutes remaining, and the gentleman from Florida [Mr. MCCOLLUM] has 7¾ minutes remaining.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. TURNER].

Mr. TURNER. Mr. Chairman, I came to Congress after having served in the Texas Senate where last session we passed what I believed to be one of the toughest juvenile justice reforms in the Nation. Now I come to Congress and find that this Congress, in H.R. 3, is going to tell the State of Texas that

our tough juvenile justice bill is not good enough, not good enough to qualify for the Federal funds that we want to provide.

The legislatures in the 50 States do not need the Congress telling them how to run the juvenile justice system. We have a letter that we received today from the National Conference of State Legislatures opposing the mandates of H.R. 3.

In Texas we have gotten tough on crime and we have also recognized that we must invest in prevention of juvenile crime. We must begin the process of investing in early childhood intervention, in supporting our families and our communities, and being sure we attack the root causes of crime, and being sure that our Nation invests in our children.

This is the role that the Federal Government can fulfill. We need to keep our kids off of drugs. We need to keep our streets safe. We need to give our children the kind of training that they need in early childhood. This is where \$1.5 billion in Federal funds needs to be spent, not on telling our States that they are not tough enough on crime.

In Texas our Republican governor and our Democratic legislature passed tough juvenile justice laws. We do not need the Congress to tell them it was not good enough.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I want to thank the gentleman from Florida for his leadership on this bill and to make some points that I think are relevant as to why it should be supported.

First, under H.R. 3, prosecutors will have discretion in every case. It allows prosecutors in every instance, Mr. Chairman, to either refer juvenile offenders to State authorities, prosecute the offender as a juvenile, or proceed against the offender as an adult only in the case of murder and other serious violent felonies.

It also should be pointed out that H.R. 3 finds that we will make sure that juveniles will not be housed with adults. H.R. 3 expressly prohibits housing juveniles with adults.

Furthermore, under H.R. 3 we have prevention plus. Look at it this way, Mr. Chairman, accountability is prevention. As a former assistant DA from Pennsylvania, I can tell my colleagues that when youthful offenders come to our courts and face consequences for their wrongdoing, criminal careers stop before they start. H.R. 3 encourages States to provide a sanction for every act of wrongdoing, starting with the first offense and increasing in severity with each subsequent offense, which is the best method, I submit, for directing youngsters away from a path of crime while they still are amenable to such encouragements.

Moreover, this bill is only part of a larger effort to combat juvenile crime. The prevention funding in the administration's juvenile crime bill falls under the jurisdiction of the Committee on Education and the Workforce. That committee will be bringing forth a juvenile crime prevention bill in the next several weeks. In addition, that will be a significant part of more than \$4 billion which will be spent by the Federal Government this year on at-risk and delinquent youths.

The programs we are talking about include 21 gang intervention programs, 35 community policing and crime prevention mentoring programs, 42 job training assistance programs, 47 counseling programs, 44 self-sufficiency programs, and 53 substance abuse intervention programs.

Under H.R. 3, local governments will have flexibility. State and local governments will be able to have funds to be used for a wide variety of juvenile crime fighting activities, ranging from building and expanding juvenile detention facilities, and establishing drug courts and hiring prosecutors to establish accountability-based programs that work with juvenile offenders who are referred by law enforcement agencies.

Mr. Chairman, I ask my colleagues to support H.R. 3.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. SANDLIN], a former trial judge in the great State of Texas that had juvenile law jurisdiction.

Mr. SANDLIN. Mr. Chairman, today in this greatest of all countries we obviously face a problem, a problem of juvenile crime.

I rise as the father of four children, a youth baseball, basketball, softball coach, a former judge, a former chairman of a juvenile committee in Texas. Based upon that experience, I am convinced of one thing. Our focus in this Congress and in this country should be on one thing. We have kids with problems. We do not have problem kids.

If we send our children to school hungry, needing medical care, with no hope for a quality education, they will not succeed. We cannot expect them to succeed, and neither would we succeed under those same circumstances.

As a former judge, I have heard thousands of juvenile cases. Thousands. I agree that we need to teach children and juveniles to be responsible. Some children absolutely must be incarcerated. But if we think that by merely incarcerating children that we are going to solve these problems, we are wrong. If we think it will serve as a deterrent, we are fooling ourselves.

I will tell my colleagues one thing I learned as a judge. Children are fearless. They are fearless. They make no connection like adults do between the commission and what happens.

I have heard a lot of talk tonight about there is nothing that happens on the first offense or second offense. I do not know about anywhere else, but in Texas that is not so. That is absolutely not so.

Treating children as adults and spending more and more and more tax dollars to prosecute children and locking them up without addressing the problems that are underlying those juvenile problems is just false investment and it simply will not work. If we are committed to solving the juvenile problem in this country, we need to sponsor legislation that creates jobs, that puts families first, that sponsors education, that supports intervention.

Do we need to be tough on crime? We sure do. I have compared H.R. 3 and the Democratic substitute. I have noticed the Democratic substitute, the Juvenile Offender Control and Prevention Act, extends the age at which juveniles may be incarcerated, expands the use of Federal juvenile records and funds police officers, but it is balanced in a way that H.R. 3 is not.

These are local problems, these are local programs funded by local families. We do not need a Washington mandate to tell Texans what to do about Texas problems. It will not work.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey [Mr. PASCRELL], a very strong advocate of this issue and a member of the task force.

Mr. PASCRELL. Mr. Chairman, I thank the gentlewoman for yielding me this time. I rise in strong opposition to H.R. 3 and in support of the Democratic substitute.

We in Government have no higher responsibility to those we serve than to provide for the protection and to do all within our power to make our streets and neighborhoods safe.

□ 2130

We owe it to our constituents to confront the issues of crime head-on, not just chest pounding and tough talk. That is why I rise today in support of the Democratic substitute to the juvenile justice bill. Our substitute represents the only real balanced approach to solving the problem of youth violence. In contrast to our balanced approach, the bill of the gentleman from Florida [Mr. MCCOLLUM] takes the most extreme approach to juvenile justice reform and is filled with tough-sounding provisions which have never been proven to reduce violent crime.

The bill of the gentleman from Florida [Mr. MCCOLLUM] provides absolutely no funding for initiatives that focus on preventing crimes before they occur because 98 percent of young people in this country do the right thing. Those are the kids we should be supporting and worried about. I have had to deal with youth violence on a day-

to-day basis. I understand the fight that we are facing. In Paterson, NJ, we were able to reduce crime 36 percent in 6 years. We did not achieve this reduction by tough talk and posturing. We had the folks on the streets to work with the folks that walk the streets, the brothers and sisters in blue. We achieved it by taking real steps, implementing real prevention and community policing initiatives.

After I was elected, I formed a public safety advisory committee composed of police officers, prosecutors, judicial officials and others who have had great success in crime fighting, Mr. Chairman. I charged them with the task of reviewing our current juvenile justice system. An interesting thing happened last week. When I asked the committee to reconvene and share their opinions, to a person, every one of them acknowledged that there is a real need to be tough on these juveniles committing violent crimes. We should concentrate on how we prevent kids from ever becoming involved in crime in the first place.

They expressed the belief that we must concentrate on keeping young children from ever getting into crime. That is just what the Democratic substitute does. Our legislation cracks down on gangs and juvenile drug dealers and prescribes harsh graduated penalties for those convicted of crimes. We must recognize that only a very small handful of youths are convicted of crimes. In here, in a very specific article in Jersey, ordered to reduce the juvenile jail crowding in our State.

This is not how you fight crime. It is how you pound your chest and get people to think that you are doing something about it and you are not.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I just wanted to clarify something that the gentleman from Florida [Mr. MCCOLLUM], the chairman of the Subcommittee on Crime, said. He said he had these conferences, hearings all around the country. I think he said he had six of them. I was at one of those hearings myself. The information I recall hearing was almost identical to what the gentleman from Texas [Mr. SANDLIN], the juvenile judge, who just ceased being a juvenile judge, said at that hearing.

I wanted to yield to the gentleman from Virginia [Mr. SCOTT]. He attended almost all of these hearings. My recollection is just different from our chairman's about what people were saying at these hearings. I wondered if the gentleman from Virginia [Mr. SCOTT] might tell us what his recollection of those hearings was.

Mr. SCOTT. Mr. Chairman, if the gentleman will yield, I would say that at some of those hearings, we found the

need to try some juveniles as adults, but the fact is that without any change in the law, most juveniles tried as adults today are tried as adults for nonviolent offenses. That is, we have gone all the way down the list of offenses, and they are already being tried as adults and they will not be affected by this legislation.

Mr. MCCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. RIGGS], the distinguished chairman of the key subcommittee of the Committee on Education and the Workforce.

Mr. RIGGS. Mr. Chairman, I am pleased to join the debate. All I have to tell my colleagues is that this debate feels a little bit like *deja vu* all over again, to quote Yogi Berra. Unfortunately when we debate crime-related issues in the House, we seem to get into the yin and yang of Republican politics and we seem to promote this notion that punishment and prevention are mutually exclusive.

I actually despair listening to the debate that sometimes I think there are those Republicans, my Republican colleagues, who would be inclined obviously to vote for a punishment bill but against a prevention bill, and perhaps it is the other way around on this side of the aisle with some of our Democratic colleagues who might be more inclined to vote for a prevention bill but have real reservations, some of which we have heard tonight and for very legitimate reasons, about a punishment bill.

Be that as it may, I am very pleased to tell my colleagues that I am happy to be teaming up with the gentleman from Florida [Mr. MCCOLLUM], the chairman. We want an approach that is tough on punishment but smart on prevention.

A few weeks ago we were out in southern California, we heard from the police chief there in Westminster and Orange County, CA, Jim Cook, who is running a model program that is targeted on gang suppression. He told us: Look, before you can even talk about prevention, you have got to get the worst of the worst, the bad actors, if you will, off the streets.

Another person used this analogy of a running bathtub, that you could pull the plug but of course the bathtub would not drain unless you turned off the faucet. That is of course where prevention comes into play. It is just really critically important.

So while I support the notion of graduated sanctions, realize that by conditioning Federal grant funding to the States on graduated sanctions, that creates an even greater strain on the juvenile justice system infrastructure and, hopefully, obviously we can be part of the solution there in providing more funding for juvenile justice housing and then for the whole, all of the services in the juvenile justice system

from police, to probation, to the courts, more prosecutors and defenders.

While we want to do all of that, we again have to take a prevention approach. I agree with my colleague on a bipartisan basis, speaking as another former street cop who worked the streets for 8 years that we are not going to arrest our way out of this problem. Therefore, we are hard at work in our Subcommittee on Children, Youth and Families on a juvenile justice and delinquency prevention bill. We hope that we can bring it to the floor actually about the same time as we bring the vocational education bill which will also be targeted at young people who are at risk of dropping out or at risk of coming into contact with the juvenile justice system, the great majority of our young people, by the way, who are not college bound or who, if they go to college, will not complete college.

I really do believe we can bring a good bill out here on prevention that will take an interagency and multidisciplinary approach that will require the schools, the police, the prosecutors, probation and community-based organizations to work together to design the right crime-fighting and delinquency prevention strategies for their communities that we can hopefully drive the resources locally to encourage flexibility and innovation.

Again I ask Members to be aware as we conclude general debate tonight and approach debate on amendments and obviously votes leading up to final passage tomorrow that the gentleman from Florida [Mr. MCCOLLUM], the chairman, again and I are very, very committed to taking a cooperative approach. I personally want to make it a bipartisan one, as I think the gentleman from Virginia [Mr. SCOTT] would attest, since we have been in discussions over a period now of several weeks and hope ultimately that through our combined efforts we can show our constituents, and show the country that we are serious about cracking down on juvenile crime but we recognize ultimately prevention is the answer.

We have got to focus more time, more resources on those young people who are at risk of coming into contact with the juvenile justice system or who, if they are in the juvenile justice system, can through intensive services hopefully be diverted out of the juvenile justice system before they graduate to adult crimes and adult prisons.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I wish I could come to this well and simply say that we had reached an accommodation. I think what we have really reached is that this bill should be pulled and we should join the gentleman from California

[Mr. RIGGS] with the prevention bill that he is now proposing, simply because that is the emphasis that we should have.

Statistics already show in the State of the gentleman from Florida [Mr. MCCOLLUM] that those juveniles housed in those adult facilities, the recidivism rate is higher than any other group of juveniles. In this bill we have no protection for juveniles who might be raped. We have no language that protects juveniles from the abuse that occurs when housing them with adults. In this bill only 12 States might qualify.

In this bill, if 23 other States increase their penalties, they still would not qualify. In this bill, the block grant moneys can be used for prison construction but they cannot be used for money for prevention.

This bill is not supported by the administration. This bill does not allow for judicial review, some sensitivity and discretion to decide whether juveniles should be transferred to the adult court. We, too, want to be not soft on crime, we want to prevent crime, but we realize with juveniles there is value, as the Concerned Alliance of Men said, to giving them a hug.

I think this bill is misdirected, wrongheaded, going in the wrong direction. When we ask the question simply, what would I want to happen to my own child, when we ask that question, then we have the answer. This not H.R. 3.

What we are doing to the children of America is not rehabilitating them. What we are doing to the American people is simply saying that Washington knows best. When we do the right thing, unless it is as hard, harsh and detrimental as we want in Washington, we will not do it and allow them to have the discretion to do the right thing in their States. This bill does not respond to the needs of Americans and certainly it says take the \$64,000 and lock them up rather than the \$4,000 to prevent crime and give them an early head start.

Mr. Chairman, I would ask that we support the Democratic substitute and that we do the right thing on behalf of our juveniles in this country and embrace them and save them and prevent crime.

Mr. MCCOLLUM. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Florida is recognized for 1½ minutes.

Mr. MCCOLLUM. Mr. Chairman, I would like my colleagues to understand what I do, I think, about all of this debate tonight and, that is, that most kids are good kids, and nobody is going to dispute that. Most Americans do not commit crimes. In fact, as the gentleman from California [Mr. RIGGS] said earlier, we want to get at those and prevent crimes as much as possible. There is a bill coming out that

will work on that from his committee very shortly.

We also have a lot of other programs as we mentioned by the gentleman from Pennsylvania [Mr. FOX] directed at prevention. This does not mean, though, that we should not have an improvement in the juvenile justice system of this Nation that is broken and is not working for those who do commit crimes, and if they are the most heinous of crimes, the murderers, the rapes, the robberies that unfortunately some who are slightly under 18 do commit, and the most egregious of all crimes some of these kids who are frankly quite a bit older in this regard than they act in some of the movies, I think those kids ought to be taken up and locked up and treated as adults. Yes, there is a high recidivism rate among those kids who commit these kind of crime. It is going to be because they are the worst of the worst and they are going to be hardest to rehabilitate. They are the ones we are probably not going to rehabilitate. But the truth is we need to correct the juvenile justice system not so much for those kids, though we need to lock those up or encourage the States to do that. We need to get at the kids in the juvenile justice system just like the prevention programs the gentleman from California [Mr. RIGGS] is going to bring out who have not yet quite gotten there, who have committed the less serious offenses, the vandalization of homes, the spray painting of buildings, and so forth, and have sanctions imposed on those kids so they will understand there are consequences to their misbehavior. I am convinced from listening to experts all over this country that kids who understand there are consequences when they really are in the system do not commit a lot of other acts they otherwise would. We will have far fewer juvenile criminals in the system if we put consequences of sanctions on minor offenses back into the system again. That is what this bill does. It repairs the juvenile justice system with an incentive grant program.

We need to pass H.R. 3 tomorrow. I encourage my colleagues to do it for that reason.

Mr. CONYERS. Mr. Chairman, given the growing concern of American citizens over the juvenile crime problem, we need to carefully examine this issue and its root causes and look for ways not just to punish juvenile offenders, but for ways in which we can prevent children from becoming criminals in the first place.

Some of my colleagues believe that the very least we must do to address our juvenile crime problem is to lock up violent juveniles. I have no argument with incarcerating violent offenders, but to my mind, the very least we must do is to attempt to stop these kids before they become violent offenders. Locking up more and more kids is not the answer. We cannot afford it and eventually these kids will get out.

And what will happen when they do get out? We will have a group of young adults who

have spent many of their formative years in jail. What can we logically expect them to have learned there except for how to be better and more dangerous criminals?

Yet now, in the current political climate where no penalty is ever considered too severe, many of my colleagues want to treat kids as adults and lock them up for longer and longer periods—even though study after study has shown that this approach is totally ineffective.

Traditionally, juvenile court judges have given juveniles longer sentences than the judges in adult courts. The worst offenders at the juvenile level may often appear quite tame compared to what the criminal courts see every day.

Anyway, all of the talk about treating younger and younger offenders as adults misses the point. It is too little too late.

We need to deal with kids before they become violent offenders, not after. The Rand Corporation—hardly a bastion of liberalism—has recently issued a report demonstrating that crime prevention efforts aimed at disadvantaged kids are more effective than tough prison terms in keeping our citizenry safe. Since this study doesn't play that well politically, I guess we are just going to ignore it.

As adults, we need to take more responsibility for our country's juvenile crime problem. Children are not born criminals, we make them into criminals either through our neglect or our mistreatment or a lack of economic opportunities.

We are treating juveniles more harshly at the same time as we are spending less on their education, less on after-school and development programs, and less on child protective services.

We are also allowing our children to be exposed to more and more violence, not only on television, at the movies and in popular music, but in the streets, at school, and even in their own homes. A significant majority also refuses to stand up to the National Rifle Association and acknowledge the danger guns pose to our youth, despite the large number of teenagers (not to mention adults) killed by gun violence every year.

In fact, at the juvenile crime meetings Chairman McCOLLUM convened around the country last Congress, without fail at every one of those meetings—in Philadelphia, in Atlanta, in Boston, in Chicago, in Dallas, and in San Francisco—local officials have noted the problem of juveniles and guns and urged Federal action on this front. Yet Mr. McCOLLUM's bill does absolutely nothing to limit juvenile access to handguns. I guess the Republicans are only interested in addressing juvenile crime in ways that pass NRA scrutiny.

Although the 1994 crime bill authorized funding for numerous prevention programs, since the Republicans gained the majority, none of that money has been appropriated. Therefore, it cannot be argued that prevention has failed. We haven't even begun to try prevention programs. Before we lose an entire generation to the criminal justice system, we have an obligation to make every effort to assist children in making the right choices and to offer them meaningful alternatives to crime.

As with guns, at Chairman McCOLLUM's juvenile crime meetings around the country,

local officials stressed the importance of prevention programs and Mr. McCOLLUM professed to agree that prevention programs are a necessary part of the effort to stem crime. Yet the bill we consider here today offers little in the way of prevention.

The lock 'em up approach taken by H.R. 3 will do little if anything to stem the rising tide of juvenile crime with which the majority professes to be so concerned. Once again, we are trying to fool the American public into thinking we are doing something about crime when we are actually only politicizing crime. If this bill becomes law and the juvenile crime rate fails to decrease, we will have only ourselves to blame for the further public disillusionment and cynicism about politics as well as for the escalating juvenile crime problem.

The CHAIRMAN. All time for general debate has expired.

Mr. McCOLLUM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. GILCREST] having assumed the chair, Mr. KINGSTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3) to combat violent youth crime and increase accountability for juvenile criminal offenses, had come to no resolution thereon.

#### GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

#### EXTENDING ORDER OF THE HOUSE OF APRIL 23, 1997 THROUGH JUNE 12, 1997

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that the order of the House of April 23, 1997, be extended through Thursday, June 12, 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 2145

#### APPOINTMENT TO ADVISORY COMMITTEE ON THE RECORDS OF CONGRESS

The SPEAKER pro tempore (Mr. SUNUNU) laid before the House the following communication from the Honorable RICHARD A. GEPHARDT, a democratic leader of the House of Representatives:

CONGRESS OF THE UNITED STATES,  
OFFICE OF THE DEMOCRATIC LEADER  
Washington, DC, May 7, 1997.

Hon. NEWT GINGRICH,  
Speaker of the House,  
Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 2702 of 44 U.S.C., as amended by Public Law 101-509, I hereby appoint the following individual to the Advisory Committee on the Records of Congress: Dr. Joseph Cooper of Baltimore, MD.

Yours very truly,

RICHARD GEPHARDT.

#### APPOINTMENT AS MEMBERS TO THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of Section 3(a) of Public Law 86-380, the Chair announces the Speaker's appointment of the following Members of the House to the Advisory Commission on Intergovernmental Relations:

Mr. SHAYS of Connecticut and

Mr. SNOWBARGER of Kansas.

There was no objection.

#### APPOINTMENT AS MEMBER TO THE CONGRESSIONAL AWARD BOARD

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of Section 4 of the Congressional Award Act (2 U.S.C. 803), the Chair announces the Speaker's appointment of the following Member of the House to the Congressional Award Board:

Mrs. CUBIN of Wyoming.

There was no objection.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### IN COMMEMORATION OF TAX FREEDOM DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire [Mr. SUNUNU] is recognized for 5 minutes.

Mr. SUNUNU. Mr. Speaker, I rise this evening in commemoration of Tax Freedom Day, which this year falls on May 9. Tax Freedom Day is that day that Americans work to simply to pay their taxes and obligations to their State, Federal and local governments.

Tax Freedom Day is a symbol of the burden that we put on American families all across this country. Over 35 percent of our country's national product, what we produce every year is absorbed in taxes by our State, Federal and local governments. This is more than the average family pays in food, shelter, and

clothing combined. Those essentials that they need for their daily existence, they pay more in taxes every year.

Mr. Speaker, this burden consumes more and more of our economy every year, and it makes it difficult for families to get by. Where they used to be able to exist and enjoy a good quality of life with a single wage earner, today the typical family is more often required to have two wage earners, and that is just not fair. It is the burden that our tax system places on that hard-working family.

Second, taxes represent not just a burden but a price, a price that we pay on everything in our economy. It is a price that we pay on productive work, it is a price that we pay on savings and investment, it is a price that we pay on job creation. And as most people would agree, when we raise the price on anything we get less of it, but if we lower the price on those things we get more. If we lowered the price with lower taxes, we get more productivity, more savings, and more job creation, and similarly with the high tax burden that we face today, as one would expect, we get lower productivity, lower rates of savings and lower rates of job creation.

Third, the high Federal tax burden that we put on our working families keeps control centralized here in Washington. Money, particularly in the form of taxes, is power, and if we put all the money and all the tax revenues here in Washington, control them from here in Washington, it becomes a place of power, as one would expect. But if we can take the money out of Washington and put it back in the pockets of working Americans, we make Washington less important, and we make the family, the individual in a city or town more important.

And I think fundamentally that is the direction we should be headed in. This is, after all, your money that we are talking about. When we speak about government revenues or tax revenues, we are talking about the hard-earned dollars that we collect here in Washington, that we take from the individual or the working family or the business and then we distribute. We should never forget what the source of that income is.

So when we talk of lowering taxes and when we talk of Tax Freedom Day and the need to move that day back so we work less time to pay our taxes, remember we are talking about reducing the burden on families, reducing the price that we pay for economic growth and reducing the concentration of power here in Washington and giving more freedom and more responsibility back to our city or town.

This past week Congress and the President came to an agreement to try to do something about the tax burden Americans face, and our balanced budget plan balances our Nation's books for

the first time in 30 years, provides tax relief that will make a difference for the average working family and begin to lift these burdens. A \$500 per child tax credit that we hope to enact later in this year will put money back in the pockets of a typical working family. We certainly hope to enact the State tax reform and capital gains tax reform that will stop the burden on small and family-owned businesses. What can be more discouraging to someone thinking about starting a business than to know if they are successful, if they achieve their goals, then the capital gains tax rate they will have to pay will be as high as 28 or 30 percent, and even worse, if they want to leave that business in their family, they can pay a death tax as high as 55 percent.

And this is not just a tax burden that effects business owners, or small or family business owner. It effects every employee that works for that business and even the customers that buy the product from a small business. It effects every facet of our economy, in small and family businesses, or where most of the job creation take place.

By putting money back in the pockets of working Americans this budget plan that we have come to an agreement on this past week will give more power and control, more freedom and opportunity to the average American.

Still we cannot lose sight of the long-term goal with regard to trying to move back that Tax Freedom Day, and that long-term goal is fundamental reform of our tax system, dramatic reform of the Tax Code to make it simple and fair. There is nothing more unfair than to have working Americans labor under the belief that someone with more money or, better, a tax accountant, than they can somehow avoid paying their fair share of taxes.

By moving forward in the end of this session and next session with fundamental tax reform, we will continue the fight to put freedom and responsibility back in the hands of the average American.

#### COMMEMORATING TAX FREEDOM DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. SHIMKUS] is recognized for 5 minutes.

Mr. SHIMKUS. Mr. Speaker, I rise today to congratulate the Republican leadership, the President, and the Democratic leadership on coming together to balance the Federal budget and also to commemorate Tax Freedom Day for all taxpaying Americans.

Mr. Speaker, before being elected to represent the 20th district of Illinois, I spent 6 years as the Madison County treasurer. After inheriting an office of 30 employees from the previous treasurer, I reduced the office staff to 20, automated the office, and returned a

\$20,000 pay raise to the people of Madison County.

This was not easy for me or my family to do, but I felt the sacrifice was necessary to begin streamlining what I thought was a bureaucratic office, while providing better, more efficient service, and saving the hard-earned money of the taxpayers of Madison County. However, this kind of sacrifice is not uncommon in Madison County or America.

Mr. Speaker, every year millions of taxpaying Americans must tighten their belts to make the car payment, pay off the mortgage on their homes, feed their children, and pay their taxes. However, we should endeavor to change our budget and tax codes so that Americans might better provide for their family, instead of working over 5 months of the year simply to pay taxes to the Government.

Because of the recent balanced budget agreement made by our Nation's leaders, almost every taxpayer will better be able to provide for their family without worrying about an ever increasing debt to be handed to our children.

Mr. Speaker, if we continue to spend at our current rates and if we continue to let our deficit balloon, our children and my children will inherit a debt from which they may never recover. If they are not in bed tonight, my sons are watching. To David, who is 4, and Joshua, who is 2, I say, I am working late tonight to secure your future. I love and miss you and will see you soon.

It is my hope that on Tax Freedom Day, May 9, 1997, we can celebrate the resurgence of a budget philosophy which we have not adopted since 1969, and that is to spend only as much as we take in, as does every American taxpayer. For the future of our country and for the future of our children, we must sacrifice and tighten our belts.

Mr. Speaker, as the Government, as a body, and as representatives of the people, we have an obligation to the American people to hold the line on taxes and wasteful Government spending. We have an obligation to work to move Tax Freedom Day to April 9, and then to March 9, and so on.

In conclusion, Mr. Speaker, the people of the 20th district and I want to again thank the Republican and Democratic leadership and the President for agreeing on a balanced budget plan. We thank them for confronting unnecessary tax burdens, making it easier for working families and the forgotten middle class to provide for their children and for working to ease the burden which rests on the shoulders of the American taxpayer.

The family farmers thank them for working for relief from the death tax. The small business owners, homeowners and entrepreneurs thank them for capital gains tax relief. The seniors

thank them for saving Medicare, guaranteeing its solvency into the next century. Millions of children thank them for the \$500 per child tax credit. All Americans, including future generations, thank them for planning to balance the budget by 2002.

#### TRIBUTE TO STEWART B. MCKINNEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, Stewart McKinney, my predecessor, a member of this House and our friend, died 10 years ago today.

On that day 10 years ago, many of his colleagues came to this Chamber to mark the moment and express their grief, their admiration, their condolences, their remembrances. It was a deeply moving, impromptu tribute to a man whose life for me and the people of Connecticut's Fourth Congressional District continues to define the term "representative."

So I think it is fitting that the House pause once again, 10 years later, to reflect upon the life, the work, and the spirit of Stewart B. McKinney, a Representative.

A generosity of spirit marked all he did. He gave.

A man of virtually boundless affability, he gave his warmth and courtesy to clerks, elevator operators, and Capitol police as readily as to his House colleagues, Cabinet Secretaries and Presidents.

A man of considerable means, he gave the use of his cars and his houses to staff and friends.

A man of keen intellect and insight, he gave his tenure here not to the cause of self-advancement but to the causes of public housing, homelessness, and outcast Amerasian children.

□ 2200

A self-avowed urbanist from a strongly suburban district, Stewart McKinney gave life to what others only preach about: urban revitalization. He stayed on the Committee on Banking and Financial Services when others moved on to the Committee on Commerce, the Committee on Ways and Means, or the Committee on Appropriations, because he wanted to improve public housing and economic development.

Without regard to party positions, he helped draft and enact the law to save New York City from financial default. He stayed on the District of Columbia Committee when many advised him to move on to more powerful assignments, because he believed in cities. He believed the solution to D.C.'s problems contained the answers to Bridgeport's and Norwalk's and Stamford's—cities he represented in the 4th Congressional District.

In doing so, he represented his constituents while giving a voice and a vote to those who live in view of this building, but have no voting representation in this Chamber.

In the end, he gave what he no longer had, the physical strength to spend the night outside on a subway grate to demonstrate the plight of homeless people. His death from AIDS-related pneumonia came soon after.

Despite a background of wealth and privilege, he represented us because he remained one of us. I think he was as proud of dropping out of Princeton as he was of his degree from Yale.

If his wife, Lucie, did not beat him to it, he would be the first to tell you his family wealth was hers. In his hobbies of collecting convertibles and rebuilding houses, in his devotion to his family and staff, in the symbol of the Mickey Mouse telephone he used in his Cannon office, he maintained a healthy, well-grounded perspective on the triumphs and frustrations of daily life.

It is too commonly called the common touch, but there was nothing common about Stewart McKinney. Yet, throughout his 17 years in Congress, through Vietnam, Watergate, the energy crisis, and all of the other burning issues of his day, he was as comfortable in a VFW hall in Bridgeport as the country club in Greenwich.

Sometimes one group was more comfortable than the other to see him, but he had the ability to diffuse anger, soften opposition, and bring common sense to bear in uncommon circumstances.

He was at once an idealist and a realist, straddling that contradiction as cheerfully and as fearlessly as he faced being labeled a moderate or liberal Republican when it was not meant as a compliment by those in his own party.

He took his work seriously, but he never took himself too seriously, disdaining the pomposity and puffery of official Washington.

He represented all of us because of all that he was. In a floor speech after Stewart's death his 1970 classmate and former colleague, Bill Frenzel, said we ought not "to put wings on the dog," by glossing over all the things that made him so real to so many. He smoked too much. He could get frustrated and angry at the glacier pace of deliberative process. He hated missing so much of his children's lives. And I know he was frustrated to have been in the political minority all of his public life.

But in his weaknesses, frustrations, failures, and foibles, he represented the struggles and contradictions each of us faces everyday.

Stewart McKinney died of AIDS. His wife, Lucie, carries on his work as chairman of the Stewart B. McKinney Foundation, dedicated to providing housing to persons and families with

HIV disease. In this work, she daily transforms the cause of his death into the causes of his life: housing and care for those society might otherwise overlook.

Because he was here in this Chamber, our Nation is better, our horizon brighter, our represented democracy richer. Ten years after his death, he still represents to me and many others the compassion, the vision, the good humor, and the common sense to which we aspire as individuals, Representatives, and a Nation.

Stewart McKinney was truly a great Representative and it is a privilege to serve in the office that he once served.

Mrs. MORELLA. Mr. Speaker, I am pleased to join my colleague and good friend, Congressman SHAYS, in paying tribute to our former colleague, Congressman Stewart McKinney, who passed away 10 years ago today.

Stew McKinney was a very special man, who brought a keen intellect and sense of humor to this body. His commitment to the housing needs of this Nation, particularly the homeless, was unquestioned. In fact, his death was hastened by his insistence on spending a night on a grate near the Capitol in bitter cold in order to bring attention to the need for more funding for homeless shelters. Following his death, Congress approved legislation to authorize the McKinney Homeless Assistance Act, which has been a lifeline for the homeless.

Stew was a moderate Republican, and was active in the so-called "92 Group," the organization of moderate Republicans devoted to reaching a House majority in 1992. Stew would have been thrilled to have learned that his efforts helped lead to that outcome only 2 years later, and he would certainly have been an active force in the Tuesday Group, of which I am a member.

Stew's death from AIDS led to increased public awareness of HIV/AIDS and helped to bring the reality of the epidemic to Congress. At the time of his death, AIDS was still someone else's disease—his death was a wake-up call to Congress.

I only had a few months to get to know Stew—I had just begun my service in Congress in 1987. But during that brief time period, I had the privilege of working with him on several issues. He was an inspiration to me and to many Members, and he is missed.

Ms. DELAUNO. Mr. Speaker, today, on the 10th anniversary of the death of Stewart McKinney, we marvel again at the indelible mark made by this incredible legislator and human being. Stew was a truly remarkable person, who cared deeply about other people and their lives. He was far above partisanship and division, working passionately on the issues to which he dedicated his life and which ultimately contributed to his death.

Stew was committed to solving problems which weren't high profile or trendy. He worked to secure safe housing for all Americans at a time when our Nation preferred to look the other way, and caught the pneumonia which led to his death while sleeping on a grate in the rain with homeless men and women to draw attention to their plight. He

worked to preserve the salt marshes and natural habitats of the Long Island Sound, acknowledging their importance long before being "green" was popular. He inspired his family and friends to advocate for people with AIDS, the disease he contracted from a blood transfusion, at a time when most politicians, celebrities, and high-profile people of all walks of life chose not to become involved.

Stewart McKinney's life is memorialized in three refuges which bear his name: the Stewart B. McKinney Housing Act, the Stewart B. McKinney National Wildlife Refuge, and the McKinney Foundation, which provides emergency shelter to, and operates two residences for, people with AIDS. This week, as we debate the reauthorization of the housing programs about which Stew cared so deeply, may we all be blessed with the compassion, the foresight, and the commitment which he brought to the House floor.

Mr. TRAFICANT. Mr. Speaker, I would like to pay tribute to the memory of a former colleague, Stewart B. McKinney. Ten years ago we lost a well-respected and dedicated Member and today we hold this special order to pay tribute to his memory.

During his time in Congress, Mr. McKinney worked tirelessly for his constituents and for the causes in which he believed. His distinguished career was characterized by numerous triumphs, successes that made an impact on the lives of all Americans. While I did not have the opportunity to work very closely with Mr. McKinney, his reputation as an honest and admirable man always preceded him. He will live forever in our hearts and in our memories for the work that he did and for the fine example that he set.

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise today to commemorate the life of my dear friend and our former colleague, the late Stewart McKinney. Today is the tenth anniversary of his death.

It is hard to believe that so much time has passed. I still remember the night of his death, many of us gathered spontaneously, here on the House floor to find comfort in remembering him. But vivid as that memory is, my memories of Stew himself have even more life.

Let me say it plainly: Stew was always a man of principle. In every sense, he was a dedicated, thoughtful and earnest legislator, willing to take on the battles of those who are scarcely visible in this society. We remember his work for the homeless: I still carry with me an indelible image of Stew, spending a cold winter night outdoors to focus the public eye on what many had not wanted to see before. That was not a public relations ploy—it was a call to America's conscience. And I am very proud that Congress responded with passage of the Stewart McKinney Homelessness Assistance Act. Today, the fight he started continues.

Stewart McKinney also authored and passed legislation to create the Connecticut Coastal Wildlife Refuge, which has been renamed in his honor. This important legislation protected some of our most threatened wetlands along the Connecticut coast on Long Island Sound. And today, those of us in Connecticut and the Northeast can still continue to enjoy the beauty of these fragile but important areas—thanks to Stew.

Stew's compassion and dedication created a lasting legacy. But his most unique quality, in my opinion, was his love of all people. He was gifted in human understanding and compassionate in his words and in his actions. Stew demonstrated this remarkable ability here in Congress and back home in Connecticut, and I feel very lucky and privileged to have had the opportunity to serve with Stewart McKinney during my tenure in Congress. He was a great man and a great American.

Finally, let me thank Mr. SHAYS, for setting up this special order to honor the life and memory of his predecessor Stewart McKinney.

Mr. GILMAN. Mr. Speaker, I join in thanking our colleague the gentleman from Connecticut [Mr. SHAYS] for his consideration in reserving time for this tribute to our late colleague.

I remember Stew McKinney well, and find it hard to believe that 10 years have transpired since we lost him. Stew was an outstanding leader, a far-sighted legislator, and a gentleman in the truest sense of the word.

Stew McKinney is so well remembered today because so many of the causes he championed are causes which are still important to us today. He recognized the problem of homelessness long before we realized that this problem was touching virtually every community in the United States and much of the housing legislation which was subsequently enacted into law bears his indelible stamp. Stew McKinney was warning us all in this Chamber of the epidemic of AIDS long before it became fashionable to do so and long before the bulk of us realized that this health threat would touch all facets of our society.

As a Member representing a district in southeastern New York, I had the opportunity to work closely with Stew regarding the future of several raillines which cross the State border into Stew's Connecticut district. I was always impressed with Stew's attitude of "what is best for all the people" as opposed to the all too common attitude of "what is best for my own district" only.

The world has been a lesser place for 10 years due to the loss of Congressman Stewart McKinney. Let us all resolve to emulate his gentlemanly demeanor in all of our endeavors, and let us resolve to rededicate this Chamber to the standards of excellence which he established during his long, distinguished career in this Chamber.

#### GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. GILCHREST). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

#### TAX FREEDOM DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PAPPAS] is recognized for 5 minutes.

Mr. PAPPAS. Mr. Speaker, I rise today to discuss a very important day

that occurs annually and will occur this Friday. The day that I am referring to is Tax Freedom Day. This is the day in which the average American worker will finally stop working for Uncle Sam. This year Tax Freedom Day is May 9. That is 1 day later than last year; 1 more day that the American worker works for the Government.

For the first 128 days of this year, every day that people in America have gone to work, they have only been working for Government. That is just wrong. For those of us who live in New Jersey, Tax Freedom Day will come on May 11, again 1 day later than last year. While the day that we pay our taxes, April 15, never changes, the number of days that we must work to pay those taxes has increasingly grown later into the year.

In 1993, Tax Freedom Day was May 2, 122 days into the year. On average, the American worker will spend 2 hours and 49 minutes of each 8-hour workday to pay their taxes, both Federal and State. That is more than the same worker would spend on clothes, 20 minutes, and housing and household maintenance, 1 hour and 20 minutes, transportation, 34 minutes, health and medical costs, 59 minutes. Somehow, that just does not sound right, and it does not sound like we have our priorities straight.

Day after day we discuss and debate proposals to help improve the quality of life for America's families, but how can we expect families to save, to pay for a child's education, to buy health insurance or so many other things when government continues to take and take more and more each year. More than anything else, what we need to give back to the American people is their time and their money.

Just tonight, many of our colleagues spoke about the problem of juvenile crime, a very important issue for so many communities and families. How can we truly claim to live in a free society when the very freedom that we love to talk about is not available until May 9.

Since the early 1990's, Tax Freedom Day has grown later and later, and we must reverse this trend. This Congress has continued the discussion that was begun in the last Congress on giving families and individuals tax relief and balancing the budget. That discussion must continue to move forward, and we must act this year so that the next year Tax Freedom Day is earlier in the year and not later, as has been the case.

#### DEATH TAX SHOULD BE PUT TO DEATH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, I would like to speak this evening for a few mo-

ments about the death tax. That is a tax that the U.S. Government applies to many of us, will apply to many of us, the second your heart stops beating. It is a tax which will get to us quicker than the undertaker will get to us. It is a tax on success in our country. It is a tax against the average American family in our country. It is a tax that destroys families.

In our country, 70 percent of small business will not survive a second generation. In our country, 87 percent of small business will not survive a third generation. What is a big component of this failure for small business or family farms, and homes, to go from one generation to the next generation? What is that awful, heat-seeking missile? It is the death tax administered upon average Americans in this country by the U.S. Government.

Now let us take a look at the taxes that we have in this country. We have a Federal tax, we have a State tax, we have a local tax, we have a property tax, we have a sales tax, we have an airplane ticket tax, we have a heating fuel tax, we have tax after tax after tax. But that is not enough for a government that sometimes finds it too easy to become greedy to get money out of our wallets. They have to do one more strike at us, one more strike at our hard work, one more strike at our families' ability to try and pass something on to the next generation, and it is called the death tax.

Think about it. If you have somebody that thinks that they can justify when the Government comes in and taxes you, and by the way, this is money that you have already been taxed on for the most part, a government that comes in and taxes you on your death, if you have a friend or family that thinks they can justify it, sit down and visit with them. The next time you have coffee in the morning, the next time you get together with some friends, say hey, can anybody in this group justify or figure out why the Government wants to tax you on your death, why the Government wants to take the money that you spent your entire life working for and give it to Uncle Sam instead of allowing you to pass it on to your family, and by the way, keep it in your local community? Now, do not kid yourself, this applies to the average American.

For example, a person who began faithfully contributing 10 percent of their salary to a 401(k) starting at age 25 and who earned \$41,000 a year by age 50 can hardly be considered a Rockefeller. Nonetheless, if you do the math, this person could accumulate \$900,000 in their pension fund by the age of 60, and by 63 they could have enough in their 401(k) to face a success tax, a death tax, on their distributions from that account. It is not fair. We in this country suffer not just from our family farms and our family ranches, but any-

body who begins to accumulate any success at all as a result of their hard work in this country, will be taxed by this Government upon their death. It is not fair.

I have a friend who built up a business, who sold his business last year. Unfortunately, he got hit with capital gains taxation, 29 percent. Then, unfortunately, he found out he had terminal cancer. Three months later he died. The effective rate on his estate is 73 percent, and this is income that was taxed before. What happens?

This gentleman made a good living. He supported 75 percent of the operating costs of his local church. What happened this year to the local church? The family had to say, we have to send that money to the Capitol. That money goes to Uncle Sam under the death tax. We can no longer support the local church. We cannot pass our business, we have a fire sale of our business. We have to sell our father's home that we had hoped the other family, his sister in this case, could move into, because we cannot afford to pay this tax. We have to have cash for Uncle Sam, and that cash, that debt accumulates the second you die. It is patently unfair.

In this country there is no other tax that I can think of that is more unjustified, more destructive of the American family than the death tax, and it is about time that Congress got together and stopped this unfair taxation. It is sucking the money out of the family, it is sucking the money out of the community, and it puts it into a bureaucracy that cannot spend it near as well.

So I urge all of my colleagues to join myself and many others in signing on to the bill which will eliminate the death tax once and for all in this country and let one family pass their hard work on to the next generation and the next generation.

Mr. Speaker, if we want to do something for our children, get rid of the death tax.

#### HOPE FOR EARLIER TAX FREEDOM DAYS IN FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. COOK] is recognized for 5 minutes.

Mr. COOK. Mr. Speaker, I appreciate the opportunity to speak tonight about Tax Freedom Day. Tax Freedom Day this year is a day of both dismay and hope. A day of dismay because May 9, the day that Americans finally stop working for the Government and start working for their families, comes later this year than it has any other previous Tax Freedom Day. A day of hope, however, because this Tax Freedom Day comes a week after an historic budget accord between Congress and the White House which for the first time in years offers hope of tax relief for the American people.

□ 2215

I hope to be able to stand here with Members next year in honor of a Tax Freedom Day that comes way before May 9 because of the budget accord and the tax relief it promises.

As a freshman who until a few months ago eyed Washington, DC and Congress through the eyes of a private citizen, I am thrilled with this budget accord. I have read many of the news reports and the opinion pieces, as I am sure you have, that attacked this accord or advised caution.

But to me, this accord and other actions we are taking this year make the 105th Congress, along with the 104th Congress, stand out as Congresses that listen to the American people in a way that Congress has not done for decades.

Let me give a few examples. Recent polls show that 61 percent of Americans believe the IRS has too much power. We have before us this year the IRS Accountability Act that would make IRS agents criminally liable for abuses of power. Fifty-eight percent of Americans believe their Federal income taxes are simply too high.

The budget accord we vote on next week provides a remarkable net tax relief of \$85 billion over 5 years, and \$250 billion over 10 years. Sixty-nine percent of Americans polled believe we need to fundamentally overhaul and simplify the Federal Tax Code. Further, a startling 70 percent of Americans believe loopholes in our current tax laws allow people that earn the same amount of money they do to pay widely lower taxes. This Congress has heard those Americans. This Congress has brought this country closer to tax reform than we have been in decades, to the brink, I hope, of real tax simplification.

Tax Freedom Day is often a day of dismay as we realize with each passing year our freedom from slavery to a bloated Federal Government comes later and later. But tax freedom this year is a day of hope. I look forward to working with Members in the coming year to make that hope a reality for this country.

#### EXPRESSING APPRECIATION FOR MEMBERS' SUPPORT ON HOUSE RESOLUTION 93

The SPEAKER pro tempore (Mr. GILCREST). Under a previous order of the House, the gentleman from Pennsylvania [Mr. Fox] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to address the House for purposes of thanking my colleagues today for approving House Resolution 93.

House Resolution 93 expresses the sense of Congress with regard to the Consumer Price Index, and that the Bureau of Labor Statistics be the sole agency that determines what the level of the cost of living index should be.

My colleagues may recall that it was not long ago in the Senate that the Boskin Commission came out and said we ought to artificially reduce a budget-driven number or a deficit-driven number or politically-driven number, to reduce by 1.1 percent the CPI. Later facts disclosed that there was not really evidence to support that arbitrary decrease.

In fact, I am happy to report that the vote today of 399 to 16 shows overwhelming bipartisan support within this House, and I believe now within the Senate, to make sure we protect our senior citizens by making sure that the Bureau of Labor Statistics is the sole decision maker when it comes to making the CPI adjustment.

This legislation was supported by the American Association of Retired Persons, AARP; the National Council on Aging; the National Council on Senior Citizens; the National Committee to Preserve Social Security and Medicare. Furthermore, it was supported by veterans groups, and I am pleased also to report that the chairman of the House-Senate Joint Economic Committee, the gentleman from New Jersey, Mr. JAMES SAXTON, supported the bill as well.

It is because we want to make sure that taxes will not be raised and because we want to make sure we protect the pensions for our seniors; whether they be military or Social Security or other programs for which we have Federal retirement programs, we want to make sure our seniors are protected.

In fact, had we made that arbitrary allowance for a reduction of the CPI, it would have cost taxpayers approximately \$320 billion. So this is certainly a step in the right direction. As we move forward to a bipartisan balanced budget for this next fiscal year, we know that the House has gone on record today, on behalf of our seniors and all taxpayers, saying that the CPI should not be a politically driven number, should not be one controlled by a deficit-driven number or any kind of politics, but the Government agency of the Bureau of Labor Statistics should determine that number, in fairness to our seniors, to our families, and to all of our citizens.

I thank the House for its bipartisan support, and I look forward to other issues that protect our seniors and all taxpayers.

#### ANOTHER NAME FOR THE DEATH TAX: THEFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, a lot of controversy was generated recently when Deputy Treasury Secretary Lawrence Summers stated that anyone who wants relief from the inheritance tax, the death tax, is selfish. He later re-

tracted that remark, but revealed a basic philosophy shared by many high officials in our Government. I am an original cosponsor of two bills dealing with the death tax.

The first, introduced by my good friend, the gentleman from California, Mr. CHRIS COX, would totally repeal the death tax. The other, sponsored by appropriations chairman, the gentleman from Louisiana Mr. BOB LIVINGSTON, would increase the inheritance tax, the death tax, exemption from \$600,000 to \$1.2 billion.

By the way, the budget agreement between congressional leaders and the President lifts the exemption to that level, but over a period of years. We should do it immediately. At least this is a step in the right direction.

I want to emphasize again that I am a deficit hawk. I have opposed some tax cut proposals because they were not accompanied by corresponding spending cuts. It would have made it much harder, if not impossible, to balance the budget in the near future.

However, I would point out that the Federal Government receives virtually no benefit from the death tax. In fact, it probably loses money. It sounds incredible, but it is true. According to Investors Business Daily, the death tax accounts for only about 1 percent of all Federal taxes collected. What is worse is that the IRS spends as much as three-fourths of that 1 percent to collect the tax.

When we add in lost businesses, lost jobs, and lost output, the death tax becomes a net loser in terms of Federal tax dollars. In other words, after all the grief it causes small business owners and farmers, the death tax ends up costing more, at least as much or more than it brings in.

We often hear from death tax supporters that repealing or reforming it would be a tax cut for the rich. It simply is not true. The very wealthy spend thousands of dollars on accountants and attorneys to find ways around the death tax, such as setting up trusts. But average people cannot afford such tax dodges, so they have to pay the death tax.

In a recent editorial the Seattle Times pointed out that when the tax was first enacted in 1916 it primarily affected the very wealthy. Quoting now from the editorial, "Times have changed. Today's farmers, ranchers, lumbermen, merchants, and small- and medium- and large-family business owners alike feel the crunch of estate taxes. The estate tax is out of date and out of step with the Nation's proud tradition of supporting family-owned businesses."

Mr. Speaker, the death tax harms small businesses and threatens their very survival. According to the Small Business Survival Committee, 60 percent of family businesses fail to survive in the second generation, and 90

percent do not make it to the third generation. A leading cause of their demise: the death tax.

This also harms the Nation's economy. As the head of a family business grows older, there is little reason to expand his or her company. When a company goes out of business or is sold to a large corporation, people lose their jobs. A study and research on the economics of taxation indicates that if the death tax had been repealed in 1993, by the year 2000 the gross domestic product would be \$79 billion greater and 228,000 more people would be employed.

Mr. Speaker, another reason we need to reform or even repeal the death tax is that it is inherently unfair. The money a person earns during his or her lifetime is taxed over and over again in the form of income taxes, capital gains, taxes on investment, taxes on interest. When someone dies, is it fair for the government to take another 55 percent of a lifetime accomplishment? Absolutely not.

A constituent of mine from Oak Harbor, Washington recently wrote, and I quote:

People work and pay taxes all their living years to pass on to their children and grandchildren some assets: a house, a farm, a business. Upon death the government wants to tax the estate again, taking the lion's share. I call that theft.

When we take into consideration that the death tax hurts business, harms the economy, is unfair to many families, and that it does not really raise any net money to help reduce the deficit, there is only one conclusion that can be reached: There is no logical reason to continue the death tax.

#### H.R. 3, THE JUVENILE CRIME CONTROL ACT, AND THE JUVENILE OFFENDER CONTROL AND PREVENTION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan [Mr. STUPAK] is recognized for one-half of the time remaining before midnight as a designee of the minority leader.

Mr. STUPAK. Mr. Speaker, tonight I am joined by many of my colleagues as we want to talk about H.R. 3, the so-called Juvenile Crime Control Act, put forth by the majority party.

Mr. Speaker, as co-chair with the gentlewoman from California, Ms. ZOE LOFGREN and the gentleman from Virginia, Mr. BOBBY SCOTT, for the last 3 months we have held hearings, we have held meetings to try to fashion a bill that could really treat juveniles with justice, with compassion, with punishment, with treatment, with education, and a comprehensive plan. We have brought forth such a bill, and it will be the substitute tomorrow.

Mr. Speaker, before we talk about the substitute we are going to propose,

let me just for a few moments reflect back a little bit on the debate we had here tonight. In the past 3 months that the Democratic Party has been working on our juvenile justice bill, we learned a couple of things.

We learned, No. 1, that most juvenile crime, contrary to what we heard here tonight, is not murders, it is not rape, it is not robbery. The most common crime is what we call MDOP, malicious destruction of property. It occurs between 3 p.m. and 8 p.m. That is what most of the juvenile crime in this country is.

We learned that in the Federal Government we have control over 197 juveniles. One hundred ninety-seven juveniles. Of that 197, 120 are Native Americans or are on reservations, and we have jurisdiction over them. So we are talking about 77 individuals that we as a Federal Government have control over.

The States, on the other hand, they incarcerate or have under their control up to 300,000 juveniles per year. What has the majority party recommended? That the Federal Government, in its infinite wisdom, basically take control of the juvenile justice system for the whole country. We base that knowledge upon 197 juveniles that we happen to have some control over in this year of 1997.

We heard so much about Tax Freedom Day a little bit ago, and a bloated Federal Government, and all the majority party are these great deficit hawks. Yet, they want to spend \$1.5 billion over the next 3 years to incarcerate juveniles, according to Washington standards, according to our standards. Whatever we pass in H.R. 3, that will be the standard.

Mr. Speaker, that is no way to deal with juvenile justice, it is no way to deal with juveniles in this country. We are here tonight. We spent 2 hours on the bill. We will have approximately 2 hours tomorrow; 4 hours on juvenile justice. We heard what a great problem it is throughout this country, and it is. Can the 105th Congress not give us more than 4 hours on juvenile justice? We have been working on a HUD bill, housing and urban development bill, for over 1 week. Yet, when it comes to crime and juveniles, we can only spend 4 hours.

Mr. Speaker, tomorrow I will be proud to introduce the Stupak-Stenholm-Lofgren-Scott-Delahunt-Mel-Watt substitute. It is going to be our Juvenile Offender Control and Prevention act. It is a tough bill. It is a smart bill. It is a balanced bill. It is tough in the area of providing comprehensive treatment, education, and prevention for juvenile delinquency. We give the local communities, not the Federal Government but the local communities, the flexibility to decide what they need to stop violence in their community. It is the local commu-

nities that must determine how to stop violence; not the State, not the Federal Government, but our local communities.

□ 2230

We in our 3 months of hearings got together with police officers, probation officers, judges, teachers, parents, and what is needed to fight this problem we have of juvenile delinquency in this country? They said, give us the flexibility to address our individual needs.

I come from northern Michigan. My largest town is maybe 20,000 people. I have a very large rural, sparsely populated area. Our problems are much more different than Boston or south central LA. And what have the experts said? We should give the local communities the flexibility to do what will work in their community. What will work in northern Michigan is greatly different from what is going to work in Boston or LA or Alabama.

Sixty percent of the 1.5 billion we use, the same money that the majority party is going to use, we are going to take about 60 percent of our money over the next 3 years; and it will be used for prevention, early intervention and treatment of juveniles. We are going to do that by strengthening the family. We are going to provide for safe havens for after school. Why? Because as I said earlier, most crime occurs between 3 and 8:00 p.m. and it is vandalism.

We have drug prevention, drug treatment and drug education. Each community must base their initiatives and it should be based upon research, proven research, cost-effective efforts, because we want to be smart with the taxpayers' money, smart in our approach as we prevent serious violent juvenile crime.

The McCollum bill, the majority bill, gives us zero money for prevention, zero money for early intervention, zero money for detention, zero money for prevention. Instead the majority bill wants to try 15-year-olds as adults and after they convict them, then they are going to tell you, you have to lock up that 15-year-old with adult prisoners. There is no option and there is also an option. There is also an option with the majority bill to even try juveniles as young as 13 years old, 7th graders and 8th graders as adults. That is their bill. Get tough, lock them up, put them away and do not worry about it. That is coming from the Federal Government who has no experience in this area.

Instead, the minority party, the Democratic substitute will have a smart, tough and balanced bill. We are going to be tough on juveniles in that right now underneath the Federal system, juveniles can only stay until 21 years old. We are going to extend that time for violent juvenile offenders. They are going to be incarcerated

through age 26 in our bill. We are going to expedite the time that a judge will only have 90 days, and it will be the judge who will make the decision. He will have 90 days to decide whether or not to transfer a juvenile from juvenile court to adult court; not the prosecutor, not the popular elected thing, because we are going to take politics out of juvenile crime.

We are going to let the judges decide where they are empowered to enforce the law, not the political speech. We are going to increase the penalty for those juveniles who are using a gun in a crime, something that has not been done before. We are going to increase that penalty. If they are going to use a gun in a crime, punishment will be swift and severe.

We are going to expand the use of records, juvenile records for law enforcement purposes. We will require mandatory restitution in juvenile offenses. And once a juvenile is determined delinquent, the court is only going to have 20 days to finally impose sanction and penalties and not drag it on.

And all of the States in our bill will benefit, all States including the District of Columbia can benefit because the money will go to local units of government based on tough, smart research, proven research based upon local community initiatives.

Mr. Speaker, that is not like the majority party. What do they want to do? We are going to mandate what we have to do, what States have to do, and if they do not do it, they get no money.

Mr. DELAHUNT. Mr. Speaker, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Speaker, the gentleman has referenced several times that, if the States do not comply with the mandates that this bill provides, the mandates that many of us disagree with based on very sound public policy, because as indicated, we are hurt time and time and time again that these initiatives, these mandates simply do not work.

But what happens to that \$1.5 billion? For those States that make the decision that they want to chart their own course? I would ask the gentleman if he knows what happens to that \$1.5 billion? Is it then spread among the very few States that do comply?

Mr. STUPAK. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. DELAHUNT] on his inquiry. If we look at the report put forth by the gentleman from Florida [Mr. MCCOLLUM] and the Juvenile Crime Control Act of 1997 out of the Committee on the Judiciary, they lay out on page 78, despite the fact he claimed he had no knowledge of it tonight, but on page 78 it says, we propose this program for several reasons.

First, as written, it appears only 12 States, Colorado, Connecticut, Dela-

ware, Florida, Georgia, Idaho, Mississippi, Nebraska, New York, North Carolina, I know that is under some dispute with the gentleman from North Carolina [Mr. WATT], Vermont and Wyoming, would possibly qualify for funding. The other 38 States and the District of Columbia do not qualify. It is 1.5 billion spread among 11 or 12 States.

Mr. DELAHUNT. Mr. Speaker, if the gentleman will continue to yield, I was stunned this afternoon to hear the primary sponsor of this bill could not even confirm that his own State of Florida could comply with the mandates of his proposal which would, coming from Washington, again tell the States that do have the experience how to handle violent juvenile crime. It just absolutely stunned me to hear that. I respect the gentleman. I know that he is a man of deep convictions. But I would think that this Congress, this body would not want to vote on such a significant piece of legislation until every Member knew exactly whether his or her State would be in compliance with the mandates that the bill puts forth. And to hear the primary sponsor acknowledge that he did not know himself whether the State of Florida would qualify I found incomprehensible.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, in following up on this point, because I think that the Democratic substitute took long months of deliberation to confront the issue of being strong both on preventing juvenile crime and as well addressing the question of violent juvenile crime.

Texas is considered a State that has addressed the question of violent juvenile crime, and it is not a State that is viewed as one that takes lightly the seriousness of juvenile crime. In fact, it is a State considered tough on crime. Texas, Far West, will not be eligible for these funds.

At the same time, they will tell my good friend from Boston that his program is not a valid approach; his prevention program, his method of now 2 years without one single homicide is not valid. I would simply say to the gentleman from Michigan that I will leave him with this question: We need to consider what we would like to happen to our own children in this instance. I am sorry that the deliberation and those who designed this bill, H.R. 3, did not think of that. For we can see in the large gap between locking them up and lack of prevention dollars, they did not give the consideration to how they would want their children to be thought of and handled.

Mr. STUPAK. Mr. Speaker, reclaiming my time, I think that is the question we should ask here, it is \$1.5 billion, only 12 States at best can enjoy

that \$1.5 billion. We are spending that much money on a few juvenile delinquents in a select number of States. And what do we tell all of the rest of the children in this country? And we cannot provide health insurance. But yet we are going to spend \$1.5 billion over the next 3 years for 12 States to lock up some kids because the majority party feels they are going to get tough on it.

What has the National Conference of State Legislatures wrote to us today and said, this is ludicrous. Stop this. You are putting on unfunded mandates. You, the Federal Government, are telling us what to do and giving us very little money. And we all have to comply and you have no experience in this field. Washington is telling us how we have to do it. They have missed the whole point here. I really hope that our Members reject the majority bill tomorrow and accept the Democratic substitute.

Let me finish up with a few more words here before I yield to the gentleman from California, my good friend. Our bill, the Democratic bill that took us 3 months to put together and many hearings, we target violent kids. We crack down on juvenile gangs. And if you commit a crime with a gun and you are a juvenile, the punishment will be swift and severe.

I was a police officer. The gentleman from Florida [Mr. MCCOLLUM] said tonight, we are sending a message; we are going to stop crime before it gets started because we are going to be tough on everyone. It does not work that way. I was on the street for 13 years. It does not work that way.

Mr. DELAHUNT. Mr. Speaker, I think it is so important to understand, and I have heard the Chair of the Subcommittee on Crime say again and again and again that we are sending a message. I think that he fails to understand that those violent juveniles that he wishes to take off the street, and I agree with him, are not going to be deterred. There is no such thing as deterrence when we are talking about that hard core juvenile. Incapacitation, yes, but if we are going to lock them up, let us not lock them up in an adult prison where they are going to receive the very best training in terms of violent crime. They are going to receive a Ph.D. in violent crime if we send them to adult institutions. I promise you that. That is my experience as a prosecutor in the Metropolitan Boston area for over 20 years.

Ms. LOFGREN. Mr. Speaker, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from California.

Ms. LOFGREN. Mr. Speaker, I think it is worth pointing out, as a member of the Committee on the Judiciary, I was distressed that this bill received just 12 hours, really, of discussion. And there were a lot of things that are unknown.

For example, we did know that only arguably 12 States would qualify. I must point out, California is not among those 12. But we did not specify who gets the excess funds. So it is possible that Florida gets California's money or not. This is a real issue because right now the money we are talking about, the \$1.5 billion, is in the violent crime trust fund.

Those funds are currently flowing to States and localities. Every State is getting some of that money and so it will be a real loss to cops and prosecutors who are currently getting funding if States do not qualify and we know some do not and some will never. So this is important.

I know you have a few closing remarks but this bill is flawed in so many ways that I hope to have an opportunity to go through some of them, because I think so many of our Members have been busy on budget or other, HUD or other items that they have not yet had a chance to really go through the bill line by line as we have on the Committee on the Judiciary and as the gentleman has as one of the co-chairs of our committee. I hope to go through a couple of other points when the gentleman finishes his presentation.

Mr. STUPAK. Reclaiming my time, Mr. Speaker, the gentleman from California [Mr. RIGGS] came down and he said he hoped to put on something with a bill later this year with prevention. I think we all know, we all have a couple terms here now, that tomorrow never comes in Congress. It is what we are doing today.

This juvenile prevention bill or juvenile control, Juvenile Justice Act, whatever they are calling it now, that is where it is today. It promises something tomorrow, and it will never come because there will be some new crisis we will jump to. But we are not going to arrest our way out of it.

The gentleman from California [Mr. RIGGS] was correct. He was a police officer for 8 years. He said the same thing. He said it is absolutely right. You cannot arrest everyone and you cannot lock them all up and expect to solve this problem. There has to be a combination here of prevention, treatment and early intervention and intense supervision and, yes, there are some that we will have to lock up. We should be there to assist.

Ms. LOFGREN. Mr. Speaker, if the gentleman will continue to yield, he is absolutely right.

We need to do all of the things. We need to do prevention, intervention, we need to incarcerate some kids and in some cases there are some very tough kids who need to be tried as adults in my opinion. But to say that the \$1.5 billion can go to those 12 States for incarceration because we are going to have a prevention bill coming, that prevention bill has \$70 million. So the \$70 million for prevention versus the

\$1.5 billion for trying young people as adults, that is not a balanced program. That is an extreme program and one of the reasons why we should not approve H.R. 3 tomorrow.

□ 2245

Mr. STUPAK. Mr. Speaker, reclaiming my time, one of the real great spokespersons, articulate individual in this whole matter, has been the gentleman from North Carolina, Mr. WATT, who points out to us time and time again that North Carolina has more than its share of prosecuting young people and has probably the most severe and toughest juvenile justice laws on the books, and it has not always worked, and I yield to the gentleman for his comments.

Mr. WATT of North Carolina. I thank the gentleman for yielding. I want to correct my colleagues on one point. They keep saying there are 12 States that qualify. I want to assure them that North Carolina was included in the list of States that, according to the report, qualified, but I have a letter from the State of North Carolina in my file—

Ms. LOFGREN. So we are down to 11, maybe?

Mr. WATT of North Carolina. We are down to definitely a maximum of 11.

And understand that there are four criteria that a State has to meet to get these funds. What we found out was that North Carolina, as aggressive as we are, as much as North Carolina supports the philosophy of the bill the gentleman from Florida professes to support, that we do not meet three out of the four requirements. We fail on three out of the four requirements.

We do not have open juvenile records; we do not allow the prosecutor, by himself, to decide whether to prosecute as an adult, because we think it is reasonable for a judge to make that determination; and we do not sanction parents who fail to supervise their children. We do not punish the parents for that.

Those are three of the four requirements and we fail on those three, so we do not get any of the money, even though we have some of the toughest juvenile laws in America.

Mr. DELAHUNT. Will the gentleman yield?

Mr. WATT of North Carolina. I would be happy to yield.

Mr. DELAHUNT. Mr. Speaker, I think that every Member of Congress, before he or she casts a vote, has an obligation to the people that he or she represents to check, as the gentleman from North Carolina did, with the Attorney General of their respective States, because it is my belief that the gentleman is correct. There are probably maybe one or two or maybe three States that could even file an application to secure funding from that \$1.5 billion pot. This just does not make any sense.

And those mandates, and they are mandates, are an attempt by a segment of this House to impose national standards in terms of juvenile justice, and they have, as has been stated and restated, no experience.

I wanted to pose the question to my friend and colleague on the Committee on the Judiciary, the former U.S. Attorney in Arkansas, Mr. HUTCHINSON, whether he ever tried a juvenile case as a United States attorney. I daresay that his answer would have been no, because there is no Federal system.

They do not know what they are talking about, and yet it is fascinating, because I was reading the Orlando Sentinel of May 9, 1996, just about a year ago, and there was a statement there by the Chair of the Subcommittee on Crime, the primary sponsor of this bill, and he was referring to more than \$500 million for law enforcement block grants. He stated, and these are his words, "Local communities can now tailor programs to meet their particular needs instead of using Federal crime fighting dollars," and this is a quote, "for Washington-knows-best prevention initiatives. This recognizes that what works in Spokane may not work in Orlando and it encourages local innovation to fight crime."

So what the gentleman from Florida would suggest is that when it comes to prevention, we will not have mandates, I guess, but when it comes to intervention and to prosecution and to treatment, we better have mandates because we in Washington know best. I daresay that one of the few States, it appears, and he does not even know, the State of Florida probably complies with these mandates.

I wonder if we examined the statistics for juvenile violence in Florida, where it has been tested, whether it works. I am willing to challenge the gentleman from Florida to review the statistics on juvenile violence in Florida with the statistics on juvenile violence in Massachusetts.

Under the gentleman's bill, and I know what we have done there, and I know it worked and I know we are heading in the right direction, but under the McCollum proposal, we do not have access to expand our efforts and we will not qualify for that \$1.5 billion. That just does not make sense.

Mr. STUPAK. Mr. Speaker, I yield to the gentleman from California.

Ms. LOFGREN. Mr. Speaker, I think it is important, because as so many of our colleagues, as I said earlier, have not really had a chance to take a look at this bill, and the vote will be tomorrow, that we go through some of the flawed elements of H.R. 3, and they are serious.

As others have mentioned, there are currently, I think last year there were, I think, 197 juveniles in the Federal system. However, under the bill we are mandating, in the case of 14-year-olds,

requiring prosecution of 14-year-olds as adults without any discretion on the part not only of judges but without any discretion on the part of prosecutors either. Further, the bill permits prosecution of 13-year-olds as adults in the Federal system.

Now, I think most of us know that even very young children can do truly awful things and that there are occasions, and opinion is divided, but I believe there are even very young children sometimes who need to be held to an adult accountability. But to automatically make that decision without doing a case-by-case review is not supported by the facts and will not make us safer.

There is another issue in the bill that I think many Members need to be aware of, and it is a proposed massive expansion of the Federal role in juvenile delinquency and law enforcement.

Under the bill, and there will be an amendment tomorrow, there is a whole series of Federal offenses, including conspiracy to commit offenses. Included are virtually all drug crimes and drug trafficking crimes. Now, no one likes drug trafficking. No one approves of it. But when we include conspiracy to commit a drug trafficking crime, the truth is that we are talking about having Federal police having the ability to go into towns and cities throughout this country and prosecute and arrest 13-year-olds standing on the street corner, part of urban street gangs.

I trust our local police, I think, a whole lot more to do that. I think I trust our local DA and our local judges a whole lot more to do that local law enforcement job than the creation of a U.S. police force. I think that is something that needs attention on the part of Members.

Finally, I think we need to take a look at who, even at this late date—and this has been quickly done—who is on which side of these issues. We already know that the State legislatures oppose the bill. I just got letters in today from the United Methodist Church, the Presbyterian Church, the United Church of Christ, the Evangelical Lutheran Church, and the Churches of Christ all urging Members of this House to oppose H.R. 3. Why? They realize that the scheme outlined in the bill not only will not make our country safe, but it is inimical to our Christian faith. And I think all of us need to pay close attention to the guidance that the clergy is giving to us in this matter.

Finally, the gentleman from Florida, as chairman of the committee, did mention, and I think we need to review this, that there is some \$4 billion in funding for prevention anyway in the government. The YMCA, the Young Men's Christian Association, did an analysis of that assertion, and I am going to make it available to Members

tomorrow morning in the mail, but I think it is worth pointing out that included in that \$4 billion are things that have nothing to do with prevention. And the YMCA concludes that the programs and the funding is not correct. It is misleading.

I know the gentleman did not intend to mislead, but I think it is important that the Y's analysis be made available to the public.

With that, I would simply say that our bill is tough on crime, it recognizes that young people do need prosecution, but it also understands if we only do that, it is saying we have to have more victims before we respond.

As Mark Klaas said, "Saying that we are building prisons to solve crime is like saying we are building cemeteries to solve the problem of the deceased."

Mr. STUPAK. Mr. Speaker, I thank the gentlewoman for all the work she has done on this and look forward to the continued fight tomorrow, and with that I yield to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time and also for helping with this special order.

I think it is a very important issue because we fundamentally have a choice. We can do what works to reduce crime, or we can do what sounds good, makes maybe good politics but does not do anything about the crime rate. Unfortunately, we cannot do both.

We know what works. We have seen studies of Head Start, recreation, boys and girls clubs, Big Brothers, Big Sisters, a number of programs that work to reduce crime. These have been proven. They are cost effective. They keep kids out of trouble. They do not get in trouble in the first place, and, of course, that strategy has the added advantage that people do not have to be brutalized because there are no victims when we have prevented the crimes.

People have suggested that we are not tough or that we are choosing between punishment or prevention. They ignore the fact that in some communities we already have more of our young people in jail today than in college. Our incarceration rate in America is the largest in any country on Earth.

The average internationally of people being locked up is about 100 people per 100,000 population. Canada about 117, Mexico 97, Japan less than 50 per 100,000, the United States is already above 500, almost 600 people per 100,000. I have jurisdictions in my Congressional District that lock up about 1,500 people per 100,000. Fifty in Japan, 117 in Canada, 1,500 city of Richmond. So we cannot suggest that we are not cracking down on crime.

The fact is that the little money in this bill for prisons cannot possibly make any difference. This bill has a total national funding of \$500 million.

Virginia's portion of that on a per capita basis will be around \$10 million.

Now, we are already in the middle of a prison expansion program where we are going to be spending, when it is all phased in, another billion dollars a year for new prisons. New prisons. Not all prisons, new prisons. With this bill, instead of \$1 billion it will be \$1.01 billion. Obviously, that cannot possibly make a difference.

Or that \$10 million can be used in initiatives that will help juveniles by increasing the number of juvenile probation officers, with better supervision or other initiatives that will actually make a significant reduction in recidivism.

□ 2300

We should always address our problems and not just come up with solutions that have nothing to do with the problem.

We have heard, for example, earlier today that the highest crime rate is for those 17 to 19 years of age. One thing that strikes one right off the bat is that those 18 to 19 are not covered by the bill, they are treated as adults and are not even affected by revision in juvenile laws.

For those 17 years of age that commit serious offenses, they are going to be treated as adults. As a matter of fact, we treat so many juveniles as adults right now that more than half of those treated as adults are treated as adults for nonviolent offenses. We have gone all the way down the offenses where most of the children treated as adults are for nonviolent offenses. Our problem is that we do not treat enough juveniles as adults, we treat too many. The third is that we do nothing about those 14 to 16 and disturb their trajectory for those going into crime. If we do nothing to change that trajectory, 3 years from now when they are 17 to 19, we would have done nothing about the crime rate. If we expect the rate to be lower than it is today 3 years from now, we have got to focus on the 14- to 16-year-olds and even younger and prevention must be the focus in our juvenile crime rate.

We must also address the facts. The fact is that if we treat more juveniles as adults, the violent crime rate will go up. There are no exceptions in studies of that premise. That if we increase the number of juveniles treated as adults, the violent crime rate amongst juveniles will increase.

The Families First alternative will focus where the money can do some good. It will strengthen families and empower children to stay out of trouble. As I said, it is not a question of prevention or punishment. We are already punishing. There are things in this bill, like we know that treating more juveniles as adults will increase violent crime. They have things to publicize records of juveniles. If they are

treated as adults, if it is a serious offense, their trials will be public as adults, their records will be public. There is no evidence that that public notoriety will do anything to reduce crime. In fact, we have had evidence that, in fact, some juveniles will create crimes in order to get the notoriety. We want to focus on things that will actually make a difference, and that is why I am supporting the Families First alternative.

We already punish children more severely than anywhere else on Earth. If we are going to do anything about reducing crime, we have got to focus the extra money on prevention and not on counterproductive soundbites that do not address the problem.

The gentlewoman from California [Ms. LOFGREN] mentioned the question of conspiracies and said if you find people on the street committing drug crimes, if all they have on a juvenile is a conspiracy, that means they did not find him doing anything, he was sitting up late at night where they agreed to commit a crime, when he woke up the next morning, he went on to school and did not do anything. But he is part of the conspiracy. When the others go commit the crime, he can be found guilty of conspiracy, subject to mandatory minimums, and the way this bill is crafted, the judge would have no alternative but to sentence him with the mandatory minimums without any consideration to his prior record, to his role in the crime, to the seriousness of the crime, to his amenability to treatment, anything like that. He will be subject to the mandatory minimum, disrupt his education, and we know that he will be much more likely to commit crimes in the future because he comes out without the education. We need to support the Families First alternative because it addresses the problem. I am delighted to participate with the gentleman from Michigan in this special order to promote that alternative.

Mr. STUPAK. The gentleman makes an interesting point that in his prison construction of \$1 billion in new prison construction in Virginia, even if you receive your \$10 million if you ever met the Federal standards or the Federal mandates, remember, that is just \$10 million to help you build a prison. That is not what it costs for the guards and everything else that goes in. The smallest cost in prison is the construction. The most expensive, 80 percent, is for personnel, the cost to operate. We are leaving the States with that extra burden of now having to operate it. We will pay for the brick and mortar, but now you have to operate it.

Mr. SCOTT. If the gentleman will yield; if we are spending \$1 billion, plus \$10 million is \$1.01 billion, it will have zero effect on the crime rate. We need to put the money where it will actually make a difference.

Mr. WATT of North Carolina. If the gentleman will yield on that point, that gets me to another real concern, because we are building all these prisons. I think what ultimately ends up happening is what this bill allows to happen, which is, we will end up putting juveniles in jail with adults, which has been absolutely contrary to policies that we have been supporting.

In fact, all the evidence confirms that children who are housed with adults are five times more likely to be sexually assaulted, twice as likely to be beaten by staff, 50 percent more likely to be attacked with a weapon. In 1994, 45 children died while they were confined in State adult prisons or detention facilities, including 12 murders and 16 suicides.

I just do not want to receive any more letters like this one. I am not one that usually comes and makes policy by anecdote, but this one I could not resist, because it is from a father. He is describing to me as his Representative the plight of his son.

He said, "My 16-year-old was certified and sentenced to 8 years." That means he was certified as an adult. Sentenced to 8 years. This was his first offense. He was being raped, beaten for money or sex too many times. This is in the adult facility. Before this he went to the warden asking for protective measures, only to be laughed at. Finally you get to the bottom line here. His ultimate decision was suicide.

So this kid gets convicted, sentenced as an adult, with adults, sexually abused, and ends up committing suicide. That is just not something that we want to have happen based on our policies.

Mr. DELAHUNT. If the gentleman will yield, what I find interesting is that the gentleman from Florida has this unfounded belief and confidence that if the juvenile is incarcerated in the adult system, that when he leaves the adult system he will come back into the community and be a positive, contributing member of his neighborhood, his community, and his State. The reality is that that has simply been proven time and time and time again to be false.

If we are going to have an opportunity to chart and influence a different course for the juvenile offender, our only hope is a strengthened juvenile justice system. That is what we should be about. There are portions of the bill which I think everybody on this side could support because it goes to fund programs, and this is my reading, within the juvenile justice system that could improve it. But why these mandates that would deny States access to the funding?

What the gentleman is trying to do in this particular area is to nationalize what has historically been reserved to the States, and that is the juvenile justice system. What I find interesting is

that there are some areas that he appears to understand that the States can do some positive initiatives and that can genuinely be a laboratory, if you will, for experiments that may or may not work. But he has not provided any evidence whatsoever other than just simply standing up and saying, "We're going to send a message."

These young men, they are not going to read the CONGRESSIONAL RECORD tomorrow. They are not going to examine the statute. They are not going to be deterred. They think and act and respond differently. They are not going to be deterred.

Mr. STUPAK. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Speaker, I think this special order points out how we are not focused on the problem. We need to focus on the problem of juvenile crime. The bill that we considered earlier today and will be considering again tomorrow misses the point. It spends all of its money after the fact dealing with juveniles, treating more juveniles as adults when we know that that does not work. We know that drug rehabilitation programs cost about 5 percent of sending somebody to jail, reduces recidivism 80 percent, so it is cheaper and more effective. Those are the kinds of effective programs that we should be focused on. I am delighted to participate with the gentleman from Michigan, the gentleman from Massachusetts and the others that were here so we can show that some of us are actually trying to reduce crime. Although it may not be as politically popular, we are focused on the issue. I am delighted to work with the gentleman on this. We need to get away from the soundbites and back on the point. The Families First agenda does that.

Mr. STUPAK. I thank the gentleman from Virginia [Mr. SCOTT] for all of his work and being the cochair of the Democratic Task Force on Crime, I will continue to work throughout the rest of the 105th Congress with the gentleman and with the gentleman from Massachusetts [Mr. DELAHUNT], a new Member from Boston who has been of great help to us.

In summation, the Families First juvenile justice bill that we will be presenting tomorrow morning at approximately 10:30 as a substitute to the McCollum bill, really it indicates that we need a balanced approach to the problem of juvenile crime, an approach that would include enforcement, intervention, prevention, and, of course, detention for those violent individuals who have to be detained. It would be based upon smart, cost-effective, community-based initiatives, proven initiatives through research as we have seen in Boston, in Minnesota, and other places around this Nation when we have let local communities determine what is best for them in their communities to deal with their problem of juvenile crime.

## BIPARTISAN BUDGET AGREEMENT

The SPEAKER pro tempore [Mr. GILCHREST]. Under the Speaker's announced policy of January 7, 1997, the gentleman from Georgia [Mr. KINGSTON] is recognized for the remaining time before midnight as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, I want to say to my friend from Michigan that he still will see me in the gym bright and early in the morning, and I hope I will see both of the gentlemen because they have been a little sluggish lately.

Mr. Speaker, I have with me the gentleman from New Jersey [Mr. PAPPAS] and the gentleman from Pennsylvania [Mr. FOX]. We wanted to talk about the budget agreement that took place on May 2, last Friday. We think it is very important, very, very significant. Unlike other budget agreements, this agreement was hammered out on a bipartisan basis, and instead of having the promises now and the spending reductions later, it has the promises now and the spending reductions now.

The bill basically does five things which I think are truly significant. First, it balances the budget by 2002. Second, it provides tax relief for middle-class families now, not 5 years from now, not in 2002, but it does it now, in recognition that middle-class families need a tax cut and that tax cuts can, in fact, promote growth, which is one of the easiest ways to reduce the deficit. Third, this bill addresses the Medicare problems and solves Medicare's immediate concerns for the next 10 years. Fourth, it has major entitlement reform which, as the Speaker knows, is about 51 percent of our entire annual expenditures.

□ 2315

Then No. 5, it includes funding for many, many of our important domestic programs such as transportation, housing, and education.

I think if you look at this budget, Mr. Speaker, it is certainly not perfect, but it is a very significant step in the right direction. I believe that we have a great opportunity, an opportunity which is at hand in this Congress to get something done with it.

Mr. Speaker, with those introductory remarks, let me yield to the gentleman from New Jersey [Mr. PAPPAS] who is a freshman and came here with the idealism that all of us come here and, I think, most of us never lose, but Mr. PAPPAS is from the private sector. He is a businessman, he is a family man; he knows the importance of balancing your budget and what it means to American middle-class families.

Mr. PAPPAS. Mr. Speaker, I thank the gentleman from Georgia for yielding. As he said, I come from the private sector in New Jersey, and in New Jersey one of the things that is unique is the State government is required to have a balanced budget, as are the 21

county governments, as are the 567 municipal governments, as are the 610 or 611 school districts, and as are each of the businesses and families within our great State.

While having come from the private sector, I also served as a county government official for almost 13 years and was president of our State Association of Counties, and for us that was something that was commonplace, having to adopt a budget each year, and balance it and live within our means, live within the means of the property taxpayers that would pay the bill, and the programs that we would initiate, if they were voluntary, were programs that we felt our taxpayers could support both through their financial support as well as programs that we felt that they felt were within the scope of our obligation to our citizenry.

And I am very excited, too, with you and so many of us here on both sides of the aisle to see a plan that will bring us to a balanced budget.

You know, for those of us that are football players, the last time that the New York Jets won their last Super Bowl was the same time that the Federal Government last balanced its budget, and for any of you here or any of you out there that may be watching us that may be Jets fans, you will remember that that was 1969.

Mr. KINGSTON. Joe Willie Namath.

Mr. PAPPAS. That is right, and that is an awful long time.

Mr. KINGSTON. Mr. Fox.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate my colleague taking this time to address very important issues to our colleagues about balancing the budget and adopting a bipartisan budget which will help American families and to make sure that those who are in the world of work will get a break.

The balanced budget we all have been seeking, Alan Greenspan says if we finally adopt it here, we are going to make sure we reduce our costs for mortgages, we will reduce the cost of the interest for car payments and also the interest of cost for college loans.

This legislation, the balanced budget, also calls for the CPI to be in accordance with the Bureau of Labor Statistics so our seniors will be protected by still having their COLA's and for pensions and for Social Security.

It also calls for the kind of tax relief American families need. We are talking about capital gains reduction for individuals and businesses.

Last time we had significant reductions of capital gains was the Reagan administration and the Kennedy administration, and in both cases we saw an increase in savings and investment and growth, and the \$500-per-child tax credit, that would be a great assistance to American families.

So I am very much buoyed up by the fact that this budget looks like it is a

step in the right direction, and I believe that because we are working on both sides of the aisle to get it achieved. I think this is certainly something that is a milestone that we have not had, as our colleague from New Jersey [Mr. PAPPAS] said, not since I graduated college.

Mr. KINGSTON. I did not know you were that old. I was just in junior high at the time.

Mr. Speaker, we have been joined by the gentleman, the only gentleman on the floor who represents a district outside of the eastern time zone, and so his folks are probably just finishing up dinner out in Arizona. But we have with us the gentleman from Arizona [Mr. HAYWORTH] who the gentleman from New Jersey [Mr. PAPPAS] may know is a former football player himself and a sports newscaster.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Georgia, and I am pleased to join with my colleagues in New Jersey and Pennsylvania.

Mr. Speaker, my colleague from Georgia is correct because in the great State of Arizona it is only about 8:20 in the evening, and so folks are getting home from work, and they have had a chance to sit down and read the newspaper and watch television news and visit with their families, maybe get the young ones to bed, and now they turn their attention to matters that affect their lives. And indeed, Mr. Speaker and colleagues, as I traveled around the Sixth District of Arizona this past weekend, holding town halls in the Globe-Miami area, the Cobra Valley, great resource-laden area, copper mines, down to Florence, AZ, and finally into the small town of Coolidge, AZ, we talked a great deal, and I listened a great deal to Arizona families and their concerns, and because those town halls occurred on Saturday, in the wake of Friday's historic announcement, there was a great deal of interest and excitement about the notion that finally in Washington, DC people quit playing the blame game and looked for solutions.

Mr. Speaker, I heard time and again from residents of the Sixth District of Arizona how pleased they were that Congress is getting down to business and working to enact a balanced budget. As our colleague from New Jersey pointed out, the last time that occurred was 1969, the year that Americans landed a man on the Moon. In fact, Mr. Speaker, the flag behind you was taken to the Moon and returned to this Chamber by our astronauts of Apollo 11, and it begs the question, if we could put a man on the Moon, then certainly, if we can reflect our national will in that way, certainly we can move to save money and to allow our citizens to hang onto their money because it is theirs, they earn it, send less of it here to Washington and transfer money, power, and influence out of

Washington, DC and into the several States, and, most importantly, keep money in the pockets of hard-working Americans for them to save, spend, and invest on their families as they see fit.

So that is what I bring back from the Sixth District of Arizona. To be certain, there is a lot of interest in working out the details, and I welcome this time with my colleagues from Georgia, New Jersey, and Pennsylvania, Mr. Speaker, as we talk more about tax relief for working families, as we talk about the dynamics of trying to work out this agreement, as we realize up front that challenges remain in the formulation of all the plans; but as we also welcome, even as we acknowledge, that no document crafted by man in this institution or any other can be considered perfect. Perhaps now we have at long last a meaningful start.

In fact if my colleague from Georgia will indulge me, let me simply read, Mr. Speaker, into the Record the first couple of sentences in the lead editorial in today's Washington Times. I think it sets the proper historical perspective.

Quoting now:

Unlike the detailed spartan and loophole-laden deficit reduction legislation passed by Congress in the 1980's outlining paths toward reaching a balanced budget within several years, the budget agreement struck last week between President Clinton and the GOP-controlled Congress appears sufficiently calibrated to reach its target. Most important, that goal is being achieved while providing for substantial tax cuts.

Mr. FOX of Pennsylvania. If the gentleman will yield, I think what is significant is that we are no longer talking in Washington about whether or not we are going to balance the budget, but when, and now we have an agreement on when: the year 2002.

Now as you say, the details, of course, are to be worked out, but what I think is also exciting, Mr. Speaker, about this new budget is it is going to offer some assistance to families who want to pass down a business to the rest of the family that follows them, that they inherit without the tax eating up all the hard-earned economic assistance that went into the business or went into the family farm, and this budget is going to have estate tax relief that families surely need out in agricultural areas and certainly in small businesses. That is what makes America great. By having this estate tax relief, I think this budget becomes an even brighter one for American people.

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield, let me ask the sportscaster here. The 1969 World Series, New York Mets?

Mr. HAYWORTH. Mr. Speaker, the New York Mets lost in last place that year.

Mr. KINGSTON. Was it 1970 that they came back?

Mr. HAYWORTH. They defeated the Baltimore Orioles.

Mr. Speaker, there are some denizens of this area. Indeed, as we look at the Speaker pro tempore, Mr. GILCHREST, tonight and realize that he hails from the great State of Maryland, that may be something that he would rather forget, but knowing it was the year of the Miracle Mets and sadly, ironically, the last year of what should be commonplace instead of miraculous, and that is a balanced budget.

But the gentleman from Georgia [Mr. KINGSTON] is quite right, the Mets defeated the Orioles in that World Series 1969 that led to a great book, "The Year The Mets Lost Last Place."

Mr. KINGSTON. The distinguished Speaker pro tempore from Maryland sitting there might not like it, but I think it is important for my colleagues to realize how far back in time we are talking about.

I will give you an example. My dad was a tight-fisted college professor and, raising 4 kids, did not want to spend a lot of money on a car for the teenagers. He bought a 1971 Ford Maverick in 1971. The sticker price on that car, as my colleagues may remember, was \$1,995. That is what you could get a Ford Maverick for in 1971.

That was a long, long time ago. Driving that Maverick down the road, you could fill up the tank at 25 to 28 cents a gallon. I think it is important for everyone to realize how far back in time we are going since the budget was balanced. Neal Armstrong was walking on the Moon that year.

But let me ask this, let us move ahead. We have had budget deals. We had lots of them during the Reagan administration. We had the Bush administration's budget deal. We had one with Clinton. This one is different in that it has so much of the savings and tax cuts now. The benefits are now.

I have said to the folks back home that New Year's Day, actually January 2 every year, we promise we are going to lose weight. We say, okay, now is the time and we make that New Year's resolution and we feel real good about it. But then come February there is a wedding, and come March there is something. March, of course, in Savannah we have St. Patrick's Day. Everybody is going to resume festive activities then. But as the year goes on, you get a little bit further away from your New Year's resolution and you are not losing that weight.

I think that it is important for us to realize that, as significant as that decision is, the resolution on May 2 to go on a diet once and for all to balance the budget, it still is going to take discipline. We do not just celebrate and go home. That is one thing the four of us have learned as relative newcomers to Congress is that this is the first step.

The Speaker and the leaders have all acknowledged that this budget agreement is significant, but do not go home. You have to watch the process

and you have to push because there is going to be a lot of discipline and there will be lot of times down the road where the special interest groups come to us in June, in July, in August during the appropriations cycle and say, just a little bit more here, another billion here, another billion there, a new entitlement; and we are going to have to have the discipline to say, no, we cannot do that.

Mr. HAYWORTH. Mr. Speaker, if the gentleman would yield, a point that I think is important here, and we would be less than candid with the American people, Mr. Speaker, if we did not take into account the cynicism, yes, even the skepticism that greets this agreement.

Indeed, this morning in the lead editorial of the Arizona Republic in my great State, there was voiced in the editorial some skepticism about the plan. But Mr. Speaker, as the American people join us tonight, I think it is important that they realize that the proof is in our most recent history, that with this Congress and the change in majority status here beginning in 1995 with the 104th Congress, the proof was in the pudding, the proof was in the actions.

For example, the elimination of almost 300 wasteful and duplicative government programs, in the process, a savings of some \$53 to \$54 billion. So my colleague from Georgia, Mr. KINGSTON, is correct; much remains to be done.

□ 2330

The other thing that makes this different, what was pointed out in the lead editorial of the Washington Times this morning, is that the loopholes are not there. Indeed, the challenge now becomes to craft a document, the details of which will be worked out, of course in consultation with the minority, but with the special philosophical underpinnings of our new majority in the Congress of the United States to adhere to a simple notion that is the following: This wealth does not belong to the Government, it belongs to the American people who voluntarily send their tax dollars to Washington.

It is our job to be a good steward of those tax dollars, and to make sure that we have a government that operates within sound fiscal bounds, and at the same time we do so on less of the people's money so that money stays in their pockets.

As the first Arizonan in history to sit on the Committee on Ways and Means, I look forward to a very busy time in the next several weeks as we work out the details of tax reductions in capital gains, perhaps the elimination, or certainly a drastically reduction in what we could more accurately call the death tax that my colleague from Pennsylvania talked about.

As we look at that \$500 per child tax credit, so vital to American families

who need to save, spend and invest more of their hard-earned money and send less of it here to Washington, that is the challenge before us, even as we work out the details, not with legislative loopholes or some sort of sleight of hand, but we get about the hard work of the details of governance, which is why we were sent here in the first place.

Mr. FOX of Pennsylvania. Will the gentleman yield?

Mr. HAYWORTH. Mr. Speaker, I gladly yield to my friend from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, we are very proud that the gentleman is on the Committee on Ways and Means so that he can exert his considerable leadership on some important reforms, not least of which would be to reform the IRS. Of all of the districts, for that matter Pennsylvania, my colleague knows the way the law is written today, the burden is on the taxpayer, that says that the taxpayer is presumed to be guilty that they did not file or that they did not remit correctly. And instead I think, and I think many of us do and our constituents back home think that burden of proof should be turned around.

Some of the abuses that have taken place to some of our constituents have to be addressed. And I hope that the Committee on Ways and Means, working on reforms to balance the budget and making sure we have bipartisan initiatives that help the people, will also look into how we can make that agency work more responsibly.

Mr. HAYWORTH. Mr. Speaker, I think that is a point well taken, and I would also add that let us give credit where credit is due. Indeed the leadership on this issue comes from both sides of the aisle. Our good friend from Ohio, [Mr. TRAFICANT], has been insistent on this type of legislation, and I do not think we can overstate this to the American people too emphatically.

As we know, and my colleague from Pennsylvania being a distinguished attorney, I do not hold that against him, but it has been a basic tenet of Western jurisprudence that the burden of proof does not rest with the accused; instead, with those who make the accusations. Yet, we have turned that in tax law to where it is completely reversed, and some would say that reverse indeed is a perversity of the system, for when one is called in and questioned about one's returns, the burden of proof falls not on the Internal Revenue Service, instead it falls on the accused taxpayer. Indeed, there is not the presumption of innocence; instead, there is a presumption of guilt.

So I salute my colleague from the other side of the aisle, the gentleman from Ohio [Mr. TRAFICANT], for being a leader on this issue. And I champion the fact that here again is another example, despite the tendencies and

temptations of one-upsmanship and snappy rejoinders and spinorama that emanates out of Washington, DC, there are people of goodwill from both major political parties willing to put that aside and work for what is best for the American people.

Rest assured, there will be differences, and indeed we should champion those differences here in this, what one of our forebears called this temple of democracy. But with that in mind, let us work together to deal with reforming the IRS, changing the IRS as we know it, working hard to put money and allow American taxpayers to keep that money in their pocket and rein in the size and influence of this behemoth we now call the Federal Government. I know our colleague from New Jersey has thoughts on that as well.

Mr. PAPPAS. Mr. Speaker, I could not agree with the gentleman more. Earlier I was here standing in the well and talking about Tax Freedom Day. That is just a couple of days away, and each year it seems to go later and later. In my State it is May 11, whereas nationwide it is May 9. Some people in this Chamber and around the country feel that we cannot cut taxes and balance the budget at the same time. I am of the opinion that we can do both and I think that we do need to cut taxes to spur economic growth, but also to force us here in the Congress to reduce spending, and I think that that is the only way that we are going to be able to do that.

A lot of people that may be watching may be saying, what does balancing the budget do for me, and what does it do for my family? The Concord Coalition, which is a very well-respected organization, had done an analysis that I am sure in all congressional districts, but they did one for the 12th District of New Jersey, which I represent.

Their research showed that the average home in the 12th District of New Jersey, the central part of the State, costs approximately \$205,200. If that were borrowed, 100 percent mortgage, which is unusual, if all of it were borrowed with 8 percent interest over a 30-year mortgage, the mortgage holder would pay \$1,505.68 a month. A 2-percent reduction in interest rates on a 30-year mortgage, which Dr. Greenspan and so many economists around the country have said would result from a balanced budget, 2-percent reduction in interest rates over that 30-year period of time would result in a \$1,230.28 payment, a savings of \$275.40 a month. If that same mortgage holder, that same homeowner, that same family put that savings into a bank account earning 4.5 percent interest, a typical rate of return, over that same period of time, that would turn into \$209,134.95. That is enough to buy another house, put a kid through college, put several kids through college.

Mr. HAYWORTH. I just want, for purposes of emphasis, to ask my col-

league from New Jersey to read that total again, assuming the savings with a 2-percent reduction in interest rates. This is for an average family owning a home with a 30-year fixed mortgage in your district in New Jersey, what would that savings be?

Mr. PAPPAS. On a monthly basis, \$275.40, and over a 30-year period at 4.5 percent interest, \$209,134.95, a significant amount of money.

Mr. HAYWORTH. Indeed, and I think it is very important, Mr. Speaker as we are here, to thank the gentleman from New Jersey for giving us a tangible answer of why balancing the budget is so vitally important. This is not some sort of esoteric economic goal for its own sake. It is not the notion of in the realm of cosmic reality trying to put our house in order because of a love of symmetry.

The fact is, it can help families save more, invest more, plan for their own futures, and that is why it is vital. Every family in this Nation has an economic stake in seeing a balanced budget, not because of some far-flung concept, but because of the glaring realities of the challenges of life that they will confront as we prepare to move into the next century.

While there are some cynics who would say of economists, you could lay all economists end to end and still never reach a conclusion, we are compelled to take a look at the testimony of Dr. Greenspan when he testified in the 104th Congress in front of the Committee on the Budget and when he said he was absolutely convinced that a balanced budget would lead to a genuine reduction of up to 2 full percentage points in the prime interest rates.

Mr. KINGSTON. Mr. Speaker, it is interesting that we talk about this. If we think about the interest that we are spending right now, as the gentleman knows, the second largest expenditure in our national budget each year is interest on the \$5.1 trillion national debt.

Now, we are not paying down the principal, we are only paying the interest. That interest costs a little over \$600 per person. Middle class families, a family of four, is paying about \$2,400 a year in taxes simply on the interest; \$2400 a year would pay for several months' mortgage payments. It would pay for lots and lots of groceries, depending on how many kids one has. If one has teenagers one could probably count on it getting through the week or something like that. But it would pay for a nice vacation, it would pay for a secondhand car, or at least a good portion of it, and that would just be if one could get rid of that one item on the budget.

Now, what this is going to do is this is not going to pay off the debt, but what it will do is say that the debt is not going to get bigger so that interest portion will not get bigger and bigger every single year.

We still have lots of unfinished work, but what this does is it gives us a fighting chance, gives our children a fighting chance on that \$5.1 trillion debt.

One of the definitions that I have read lately on \$1 trillion is, if we had \$65 million in a boxcar, how long would the train have to be with boxcars full of \$65 million in order to equal to \$1 trillion. If my colleagues want to guess, 240 miles long to get to \$1 trillion, and our debt is \$5 trillion. Every single school kid that gets on the steps of the Capitol or that we see in the rotunda is going to have to pay off that debt during their lifetime. It is the equivalent of taking our children out to eat, having a big meal and passing them the tab on the way out the door. It is not fair.

Mr. Speaker, this balanced budget agreement gives our children a fighting chance against that massive debt. So I think it is a step in the right direction, and it is the initial step.

Mr. PAPPAS. Mr. Speaker, if I could just mention, 240 miles, that is a little bit longer distance from my home in New Jersey to Washington, D.C. And every time I travel back and forth I will have to think about that and recognize that, when we look at the vast expense of our Nation, 240 miles is a relatively short period of time, but I travel it twice a week, and I will have to remember that. It is something very, very tangible that people can understand.

Kids born today have a \$200,000 debt that they are responsible for.

Mr. KINGSTON. Mr. Speaker, it was \$187,000 in the 104th Congress, the other gentleman will know.

Mr. FOX of Pennsylvania. Mr. Speaker, if the gentleman will yield, I think it is important to also note about this budget, not only are we going to have the tax reductions we talked about, a balanced budget that the gentleman from New Jersey [Mr. PAPPAS] has outlined which is very important, but we are also going to have additional educational assistance in this form of assistance with grants and loans so that every student has a chance to go to college. I think that is certainly the kind of bipartisan effort that this Congress has made with the White House in order to bring about a meaningful budget.

Mr. HAYWORTH. Mr. Speaker, I think that is a valuable note, but also I think the challenge is for us to find those good ideas to enact into law that can help empower educators on the local level, and I am glad my colleague from Pennsylvania, Mr. Fox, brought this up.

It will be my honor on Saturday to offer the commencement address at my alma mater. North Carolina State University was created in essence by an act of Congress. The Federal Land Grant Act in the 1860's, the Morrill land grant set aside federally con-

trolled land to several States for the establishment of institutions of higher learning so that those citizens who, in the past had not had an opportunity for a college education, could receive an education.

□ 2345

I think it is vital, indeed, borne out of experience in the 104th Congress, to take a look, commensurate with our conservative principles of holding the line on spending, recognizing the power of the several States, realizing that education cannot be micromanaged from Washington, and mindful of that historic act I am going to present in the commencement address, and indeed, I have spoken with majority leadership both in the House and Senate, and the chairman of the committee of jurisdiction here in the House, what I would call the Federal Land Grant Act for Elementary and Secondary Schools here in the United States.

Let me tell the Members, it is borne of a practical experience in the 104th Congress. The small town of Alpine, AZ, almost located on the border of Arizona and New Mexico, was confronting a crisis because the tax base in that area has essentially been eviscerated through the actions of some Federal judges to stop timber harvests, and through several other actions, the tax base has shrunk.

At the same time, there is the challenge of holding the line, or perhaps even, candidly, a decrease in what we call in legislative parlance PILTS, payment in lieu of taxes, in so many areas that have vast Federal lands; that working with the people of Alpine, I was able to enact legislation in the closing days of the 104th Congress, with the help of my colleagues who were here at that point in time, to convey 30 acres of federally controlled land to the Alpine school district for a significant savings when it came to the construction of new school facilities.

To get that done, we had to follow almost, I would not call it a crazy quilt, but it was a path that is seldom followed to get this done. So it will be my intent, as I will outline in the commencement address on Saturday, to offer in this body the Federal Land Grant Act for Elementary and Secondary Schools, so those rural school districts from coast to coast will have an opportunity to save funds, to have land conveyed voluntarily at no cost to the Federal Government for those lands that are already held in trust by the United States for these local school districts; not to micromanage the curriculum from Washington, not to dictate the policies, what should go on in the classroom, but simply as another tool, commensurate with our constitutional authority, and also the examples of history, to empower people to make local decisions in areas as important as education.

Indeed, I am indebted, I am indebted to the people of Alpine, AZ, who stepped forward with a commonsense idea; and in so doing, yes, to help their local community, offered a prototype for other school systems around the country. I am indebted to my alma mater for an education that gives us a sense of history that can be applied to the problems we face today, and on into the next century.

So let us again call, mindful of our historical legacy, for this Federal land grant program for elementary and secondary schools, so that we can empower these local communities, who are desperately in need of holding onto their own funds. And it is that type of thinking, I would submit, Mr. Speaker, from people of good will of both sides of the aisle that can make a difference as we prepare for the next century.

Mr. KINGSTON. Mr. Speaker, I believe that the gentleman is correct in that we are going to move in that direction. I think we are going to find lots of ways to kind of creatively get out of the bureaucratic entanglement that so many of our communities have gotten into, and so many of these I would say disappointments which the government has caused to local economies and people and so forth.

The gentleman had mentioned some of the savings to the middle class through college education opportunities and so forth. One of the very practical and I hope immediate measures is this \$500 per child tax credit that is in the budget. The gentleman from Pennsylvania [Mr. FOX] mentioned it earlier. It is something that American middle-class families need.

We talk so often about let us do something for the children. Why do we not just let the parents keep more of the money that they are earning and let them do that for the children? If you have a family of two, that is \$1,000 a year that you can spend for groceries, for clothes, for textbooks, for whatever your child's needs are. That is something for the American middle class that is overdue to them.

Mr. FOX of Pennsylvania. Mr. Speaker, if the gentleman will continue to yield, I would like to take off on the point that our good friend, the gentleman from Arizona, just raised.

First of all, we appreciate the gentleman's leadership and creativity on educational initiatives, but we also agree that it is left to the States to determine when Federal money goes forward for transportation, for books or school lunch; that is where the 501 school districts in my own State of Pennsylvania would determine how that is used, and as the gentleman from New Jersey [Mr. PAPPAS] said earlier, the 600-plus school districts from his own State.

One of the things we can do with higher ed is restore the deductibility on higher education. When the employer provides an educational assistance, that should be a tax benefit for

the employer and not make it a gift for the students, so there is a real incentive to do that higher ed. And also make deductibility for parents who provide the payments for college loans, to give them the tax credit, because these kinds of ideas are not Republican or Democrat, they are good for America.

So I think the gentleman's initiatives, the gentleman from Arizona [Mr. HAYWORTH], are certainly a step in looking at the Government and saying we do not have to do it the way we did yesterday, let us look at it differently; what can we do for our secondary education and our primary schools?

Mr. HAYWORTH. I am struck by the energy and the enthusiasm, the creativity of those who join us in this 105th Congress: our colleague, the gentleman from New Jersey [Mr. PAPPAS], and also one of your colleagues, the gentleman from Pennsylvania [Mr. PETERS], who outlined I think as a former school teacher really what I call the human equation when it comes to Federal dollars involved in education, as they exist today. Because our good friend, the gentleman from Pennsylvania, has come up with a notion of a resolution for dollars to the classroom, saying that henceforth it should be our goal to be mindful of the human equation; for the 6 to 8 percent of funding that the Federal Government supplies to school districts around the Nation, 90 percent of that money should get into the classroom to help teachers teach and help students learn, and 10 percent should be reserved for bureaucrats and buildings and the cost of administration, a 9 to 1 difference.

Because our initiative should be focused upon local control, upon sending those resources to where those resources can make the most difference, and, in the case of the proposed land grant legislation that I hope to introduce shortly, even finding ways where money does not have to be spent, per se, but we can use those historical examples that have served us well educationally in the past to offer hope for the future.

Mr. PAPPAS. Mr. Speaker, one of the things that we have not touched upon, and I know our time is just about up, I just wanted to mention, each of us have parents or grandparents who are dependent upon the Medicare program, and so many of our constituents. Certainly in portions of my district the senior citizen population is quite significant, and their needs are something that I have always tried to attend to.

Prior to my election to Congress I was a member of our county board of freeholders. One of my areas of responsibility was our county office on aging and the programs for our elderly citizens. That is a portion of our population that is growing at a greater rate than younger folks.

This agreement that we are all here to talk about and to help educate people in our country about, and I hope they are as excited about it as we are, one of the important parts of this is entitlement reform, and an effort to preserve Medicare beyond 2001 or 2002, when the trustees of the Medicare program have said it is going to go broke. It adds about 10 years to the life of that program.

I have a 94-year-old grandmother. We are going to be celebrating Mothers Day in just a few days. I am very fortunate to have her here and be able to celebrate that with her. People like her will benefit from it, and if I know her and the kind of shape that she is in come 10 years from now, she will probably be saying, make sure you do something about Medicare.

□ 2355

Mr. KINGSTON. Mr. Speaker, we have about a minute each to wrap up.

Mr. FOX of Pennsylvania. Mr. Speaker, I want to thank the gentleman from Georgia [Mr. KINGSTON] for taking out this hour so we have a chance to discuss with our colleagues about the importance of balancing the budget, making sure that we move along in a bipartisan fashion. We are no longer having Government shutdowns. We are making sure that the country moves forward while still having fiscal responsibility, having educational opportunity, continuing environmental protection, but making sure that the American family has a chance to retain more and more of the money they earn and less of it going to Washington by regulation, less of it going to Washington in duplicative spending from the State government or the local government.

I think this is certainly an idea whose time has arrived in Washington, to balance our budget just like State governments do, just like county governments do and school governments. The American people have to balance their budget each week, and it is about time Congress put that interest payment off the American people and make sure we keep more money for them, for their own necessities of life, and not have Washington dictate to them how their money is spent.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Georgia for yielding to me and my colleagues from Pennsylvania and New Jersey for joining us tonight.

It is obvious to the American people, while challenges confront us in working out details and, indeed, some would say those details may from time to time bedevil us, we do have a basic blueprint for changing the culture in Washington, for taking a step, regardless of party label, to transfer money, power, and influence out of this city and back into the hands of the American people.

And with that and with the framework of this historic agreement, over a

10-year period of time, one-quarter of a trillion dollars in tax relief, in tax cuts for the American people, whether for job creation and economic expansion or with a drastic change to the unfair death tax or, importantly, early on now this \$500 per child tax credit, governed by this simple notion: The money does not belong to the government. It belongs to the people, and the people should hang onto more of their own money to save, spend, and invest and send less of it here to this city.

Mr. PAPPAS. Mr. Speaker, I thank the gentleman from Georgia for initiating this and for allowing us to participate. The American people want us to balance the budget. That is why they sent the gentleman from New Jersey [Mr. PAPPAS], and I think that is why they sent each of my colleagues as well.

What excites me about this, besides that, we have real numbers that are going to bring this budget into balance by the year 2002, permanent tax relief; the estate tax reform that will allow so many family owned businesses and farms in districts such as mine to be able to be passed down from one generation to the next. There are so many people, men and women in our country and our districts that have worked all of their lives to build a business or to maintain a farm, to be able to pass that legacy on to their children.

Unfortunately, the existing Tax Code prevents many of those folks from preventing something on to their children and then for them to pass it on to their grandchildren. I am excited and honored to be a part of this Congress that is going to enact that kind of significant and permanent tax relief for our citizens.

Mr. KINGSTON. Mr. Speaker, the gentleman from Pennsylvania [Mr. FOX], the gentleman from New Jersey [Mr. PAPPAS] and the gentleman from Arizona [Mr. HAYWORTH] and I close with this, I want to submit it for the RECORD also, an op-ed from the Washington Times by Tod Lindberg. He says:

My rule of political progress goes something like this: First you lock in everything you can get; then you denounce it as grossly inadequate. If you get the order wrong, the perfect becomes the enemy of the good, and in an unholy alliance with the bad, the perfect crushes the good every time. Therefore, I like the budget deal. Can I imagine a better one? Very easily; but I have no particular reason to think that my musings are going to be enacted by Congress and signed by the President.

In short, the deal is the only game in town. What it leads us to, Mr. Speaker, is a smaller government, lower spending, lower taxes and a balanced budget and that, Mr. Speaker, is a very good start. Mr. Speaker, I include for the RECORD the editorial to which I referred:

[From the Washington Times, May 7, 1997]  
**THE ART OF THE BALANCED BUDGET DEAL**  
 (By Tod Lindberg)

My rule of political progress (which is not original to me) goes something like this: First, you lock in everything you can get; then you denounce it as grossly inadequate. If you get the order wrong, the perfect becomes the enemy of the good—and in an unholy alliance with the bad, the perfect crushes the good every time.

Therefore, I like the budget deal. Can I imagine a better one? Very easily; but I have no particular reason to think my musings are going to be enacted by Congress and signed by the president into law any time soon. The deal is the only game in town.

The budget deal before us would: 1) balance the budget by 2002; 2) do so while cutting taxes. The past four years have seen a huge shift in the terms of the fiscal debate in this country: from whether to increase taxes or not in order to reduce the deficit en route to a balanced budget (the animating principle of the disastrous 1990 budget deal and President Clinton's 1993 deficit reduction package, which passed Congress without a single Republican vote), to whether to cut taxes or not while balancing the budget—two points the president is now prepared to support. This deal codifies the latter two in law; to me, this is progress.

I'll leave the liberal arguments against the deal to the other side. But here are some notes on some of the conservative arguments against it.

It allows discretionary spending to grow. So it does, and that is not desirable. But there are now caps, and the caps prevent domestic spending growth from even keeping pace with inflation. That means real declines over time.

The spending caps become floors. They may; the task of fiscally conservative members of Congress will be to keep making the case that these caps are too high—against liberals who will say they are too low. But the conservatives would have had to make exactly the same case in the absence of this deal, too.

The reforms in Medicare are just price controls. Actually, so's the current system; nothing new there. We still need Medical Savings Accounts in Medicare and elsewhere. But surely there are some savings that can be extracted from the current system short of MSAs. Now we will see.

The deal doesn't reform Medicaid significantly. True; but this is a GOP problem as well as a Democratic problem. Governors from both parties hated the per-head caps that were under discussion. Medicaid needs reform no less (but no more) than it did before the deal.

The tax cut is small. Yep. But it's a tax cut, one that will apparently include a reduction in the capital gains rate from its current level (which is where it was when Jimmy Carter left office). The per-child tax credit, though not meaningful in terms of promoting economic growth, will mean a lot to the middle-income families who qualify for it. As for Mr. Clinton's favored college tuition tax credits, they are merely foolish, not dangerous. And none of the other tax cuts happens without his signature.

It enshrines government in its current bloated size and scope. Some folks seem to think that this is the end of politics for the duration of the agreement. That's simply wrong. The problem is that Republicans weren't able to articulate their thoughts on the size and scope of government in a fashion that voters found so compelling they were

willing to turn over both the legislative and executive branches to the GOP. Conservatives will not be hindered in making that case by an agreement that says government will live within its means while cutting taxes.

It's "balanced-budget liberalism." I don't think there is such a thing as balanced-budget liberalism. If the budget is balanced, liberalism has mutated into a less virulent species—by moving to the right. I think that merely shifts the center to the right, which is to the advantage of conservatives.

It relied on a \$225 billion cash infusion thanks to new revenue estimates. Less than people think. Of that \$225, about \$108 billion went toward inserting (tougher) CBO revenue projections. That's not spending. About \$20 billion of it went toward avoiding a legislative fix of the consumer price index, leaving a smaller fix possible under current law in the hands of the Bureau of Labor Statistics (I'd like to see CPI fixed altogether, but in the context of tax relief). About \$10 billion went to keep from fixing Medicaid, and (yippee) we get \$7 billion more in transportation. Bike paths for everybody! That leaves \$80 billion—a nice insurance policy.

Defense is getting cut too much. Yes. But the sentiment to increase it is not yet there. Proponents will need to make the case more urgently.

Mr. Clinton will be weaker, and the deal terms will be better, as the scandals unfold in the summer. Oh, promise me. Anyway, if that's true, Republicans ought to take the occasion then to stuff something down his throat he hasn't swallowed here. MSAs, maybe?

Birth of an entitlement: KiddieCare. Yes, that's quite bad. No point in pretending otherwise. Question: If there is no deal, can it be stopped? And does it really trump a balanced budget with tax cuts?

Perfect? Hardly. Progress? Definitely. After all, Rome wasn't burned in a day.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today, Wednesday, May 7, after 7:30 p.m., on account of illness.

Mr. FILNER (at the request of Mr. GEPHARDT) after 3:30 p.m. today, and Thursday, May 8, on account of official business.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)

Mr. HULSHOF, for 5 minutes, on May 14.

Mr. BOB SCHAFFER of Colorado, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.

Mr. SHAYS, for 5 minutes, today.

Mr. PAPPAS, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, today.

Mr. HANSEN, for 5 minutes, on May 8.

Mr. MCINNIS, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at the request of Mr. STUPAK) to revise and extend her remarks and include extraneous material:)

Mrs. KENNELLY of Connecticut, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)

Mr. ROGAN.

Mr. EVERETT.

Mr. BONO.

Mr. GREENWOOD.

Mr. JENKINS.

Mr. GILMAN.

Mr. MCCOLLUM.

Mr. EWING.

Mr. HOSTETTLER.

Mr. MANZULLO.

(The following Members (at the request of Mr. STUPAK) to revise and extend their remarks and include extraneous material:)

Mr. KUCINICH.

Mr. KENNEDY of Rhode Island.

Mr. BOYD.

Mr. FAZIO of California.

Mr. HAMILTON.

Mr. STARK.

Mr. TRAFICANT.

Mr. WAXMAN.

Mr. KENNEDY of Massachusetts.

Ms. CARSON.

Ms. JACKSON-LEE of Texas.

Mr. MCGOVERN.

Mr. POSHARD.

Mr. TORRES.

Ms. SLAUGHTER.

Mr. BENTSEN.

Mr. ACKERMAN.

Mr. WISE.

Mr. LEVIN.

Mr. LAFALCE.

Mr. HINCHEY.

Mr. GEJDENSON.

Ms. EDDIE BERNICE JOHNSON of Texas.

Mr. ENGEL.

Mr. LANTOS.

Mr. GUTIERREZ.

Ms. PELOSI.

Mr. FORD.

Mr. COYNE.

Mr. KLICK.

Mr. RUSH.

#### ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 midnight), the House adjourned until tomorrow, Thursday, May 8, 1997, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from

the Speaker's table and referred as follows:

3153. A letter from the Administrator, Cooperative State Research, Education, and Extension Service, transmitting the Service's final rule—Small Business Innovative Research Grants Program; Administrative Provisions [7 CFR Part 3403] (RIN: 0524-AA08) received May 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3154. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize debt buybacks and sales for debt swaps of certain outstanding concessional obligations under title I, Agricultural Trade Development and Assistance Act, pursuant to 31 U.S.C. 1110; to the Committee on Agriculture.

3155. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Paraquat; Pesticide Tolerances for Emergency Exemptions [OPP-300479; FRL-5713-2] (RIN: 2070-AB78) received April 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3156. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clomazone; Pesticide Tolerances for Emergency Exemptions [OPP-300481; FRL-5713-6] (RIN: 2070-AB78) received April 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3157. A letter from the General Counsel, Department of the Navy, transmitting a draft of proposed legislation to waive certain provisions of title 10, United States Code, relating to the appointment of the Chief of Chaplains of the U.S. Navy; to the Committee on National Security.

3158. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize debt paybacks and sales for debt swaps of certain outstanding concessional obligations under the Foreign Assistance Act of 1961, pursuant to 31 U.S.C. 1110; to the Committee on International Relations.

3159. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize debt relief for poor countries, pursuant to 31 U.S.C. 1110; to the Committee on International Relations.

3160. A letter from the General Counsel, Department of the Treasury, transmitting the Department's final rule—Maintenance of and Access to Records Pertaining to Individuals [49 CFR Part 10] (RIN: 2105-AC57) received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

3161. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Intergovernmental Personnel Act Mobility Program [5 CFR Part 334] (RIN: 3206-AG61) received April 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

3162. A letter from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Catch Specifications [Docket No. 961204340-7087-02; I.D. 110196D] (RIN:

0648-A113) received May 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3163. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Reductions [Docket No. 961227373-6373-01; I.D. 042397A] received May 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3164. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast and Western Pacific States; West Coast Salmon Fisheries; 1997 Management Measures [Docket No. 970429101-7101-01; I.D. 042497B] (RIN: 0648-AJ09) received May 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3165. A letter from the Acting General Counsel, Department of Justice, transmitting the Department's final rule—FY 1996 Police Corps Program (Office of Community Oriented Policing Services) [28 CFR Part 92] (RIN: 1105-AA47) received May 1, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3166. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Validity of Nonimmigrant Visas (Bureau of Consular Affairs) [Public Notice 2536] received April 28, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3167. A letter from the Assistant Secretary of the Army (Civil Works), the Department of the Army, transmitting a report on the food damage reduction project for Las Cruces, NM, pursuant to Public Law 104-303, section 101(a)(20) (110 Stat. 3665) (H. Doc. No. 105-81); to the Committee on Transportation and Infrastructure and ordered to be printed.

3168. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AeroSpace Technologies of Australia Limited (formerly Government Aircraft Factories), Nomad Models N22S, N22B, and N24A Airplanes (Federal Aviation Administration) [Docket No. 95-CE-31-AD; Amdt. 39-10004; AD 97-09-08] (RIN: 2120-AA64) received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3169. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Classified Information: Revision [Docket No. OST-96-1427] (RIN: 2105-AC51) received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3170. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation of Class E Airspace; Goffs, CA (Federal Aviation Administration) [Airspace Docket No. 97-AWP-7] (RIN: 2120-AA66) received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3171. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Fees for Air Traffic Services for Certain Flights Through U.S.—Controlled Airspace; Technical Amendments (Federal Aviation Administration) [Docket No. 28860; Amendment No. 187-

8] (RIN: 2120-AG17) received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3172. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class D Airspace; Dallas Addison Airport, TX (Federal Aviation Administration) [Airspace Docket No. 96-ASW-34] received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3173. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Killeen, TX (Federal Aviation Administration) [Airspace Docket No. 96-ASW-35] received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3174. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Weslaco, TX (Federal Aviation Administration) [Airspace Docket No. 96-ASW-36] received May 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3175. A letter from the Chief Counsel, Bureau of Public Debt, transmitting the Bureau's final rule—Offering of United States Savings Bonds, Series EE [Department of the Treasury Circular, Public Debt Series No. 1-80] received May 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3176. A letter from the Assistant Commissioner (Examination), Internal Revenue Service, transmitting the Service's final rule—Mining Industry Excess Moisture [Coordinated Issue] received May 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3177. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Long-Term Care Services and Insurance [Notice 97-31] received May 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3178. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize certain programs of the Federal Aviation Administration, and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on Transportation and Infrastructure and Science.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER. Committee on Transportation and Infrastructure. House Concurrent Resolution 49. Resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby (Rept. 105-90). Referred to the House Calendar.

Mr. SHUSTER. Committee on Transportation and Infrastructure. House Concurrent Resolution 66. Resolution authorizing the use of the Capitol Grounds for the 16th annual National Peace Officers' Memorial Service (Rept. 105-91). Referred to the House Calendar.

Mr. SHUSTER. Committee on Transportation and Infrastructure. House Concurrent Resolution 67. Resolution authorizing the 1997 Special Olympics Torch Relay to be run

through the Capitol Grounds (Rept. 105-92). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BONO (for himself and Mr. GOODE):

H.R. 1542. A bill to provide certain immunities from civil liability for trade and professional associations; to the Committee on the Judiciary.

By Mr. DELLUMS:

H.R. 1543. A bill to amend the Immigration and Nationality Act to permit certain non-immigrant aliens to study in publicly funded adult education programs if the alien provides reimbursement for such study; to the Committee on the Judiciary.

By Mr. GEKAS (for himself and Mr. FRANK of Massachusetts):

H.R. 1544. A bill to prevent Federal agencies from pursuing policies of unjustifiable nonacquiescence in, and relitigation of, precedents established in the Federal judicial circuits; to the Committee on the Judiciary.

By Mr. GUTIERREZ:

H.R. 1545. A bill to amend the Immigration and Nationality Act and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to eliminate the numerical limitations relating to cancellations of removal and suspensions of deportation; to the Committee on the Judiciary.

By Mr. HAMILTON (for himself and Mr. COMBEST):

H.R. 1546. A bill to provide for a system to classify information in the interests of national security and a system to declassify such information; to the Committee on Government Reform and Oversight, and in addition to the Committee on Intelligence (Permanent Select), and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HEFLEY:

H.R. 1547. A bill to provide for notification regarding crimes committed by diplomats; to the Committee on International Relations.

By Mr. PORTER:

H.R. 1548. A bill to suspend until January 1, 2001, the duty on Diiodomethyl-p-tolylsulfone; to the Committee on Ways and Means.

By Mr. RAMSTAD (for himself, Mr. KLECZKA, Mrs. EMERSON, Mr. CAMPBELL, Mr. CASTLE, Mr. DAVIS of Virginia, Mr. EHLERS, Mr. FROST, Mr. GILCHREST, Mrs. JOHNSON of Connecticut, Mr. KLUG, Mr. LAZIO of New York, Mr. McNULTY, Mr. NETHERCUTT, Mr. WALSH, Mr. WAMP, and Mr. WOLF):

H.R. 1549. A bill to establish a commission to be known as the Harold Hughes-Bill Emerson Commission on Alcoholism; to the Committee on Commerce.

By Mr. SCARBOROUGH (for himself, Mr. HOSTETTLER, Mr. TRAFICANT, Mr. KING of New York, Mr. CUNNINGHAM, Mr. WATTS of Oklahoma, Mr. SOUDER, Mr. HASTINGS of Washington, Mr. KIND of Wisconsin, and Mr. NEY):

H.R. 1550. A bill to provide for the withdrawal of most-favored-nation status from Iran, Iraq, Libya, and Syria, and to provide

for the restoration of such status with respect to Syria if the President determines that Syria is participating in the Middle East peace process in good faith; to the Committee on Ways and Means.

By Mr. STUPAK:

H.R. 1551. A bill to amend title 23, United States Code, to ensure that local officials are permitted to participate in the selection of certain surface transportation program projects undertaken in areas of less than 50,000 population, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY:

H.J. Res. 77. Joint resolution proposing an amendment to the Constitution of the United States to provide that Federal judges be reconfirmed by the Senate every 10 years; to the Committee on the Judiciary.

By Mr. BARCIA of Michigan (for himself, Mrs. KELLY, Mr. BAKER, Mr. BILIRAKIS, Mr. BOSWELL, Mr. BROWN of California, Mr. BROWN of Ohio, Mr. BURR of North Carolina, Mr. CAMP, Mr. COBLE, Mr. COSTELLO, Mr. CRAMER, Mr. DAVIS of Florida, Mr. DAVIS of Virginia, Mr. DINGELL, Mr. DOOLEY of California, Mr. EDWARDS, Mr. EHLERS, Mr. EVANS, Mr. FAZIO of California, Mrs. FOWLER, Mr. FROST, Mr. GILMAN, Mr. GOODE, Mr. HAYWORTH, Mr. HOEKSTRA, Mr. HYDE, Mr. ISTOOK, Mrs. JOHNSON of Connecticut, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KING of New York, Mr. KLECZKA, Ms. KILPATRICK, Mr. KNOLLENBERG, Mr. LEVIN, Mr. LIPINSKI, Mr. LUTHER, Mr. McHALE, Mr. MICA, Ms. MOLINARI, Mr. PASTOR, Mr. PRICE of North Carolina, Mr. QUINN, Mr. RAMSTAD, Mr. ROHRBACHER, Mr. ROTHMAN, Mr. ADAM SMITH of Washington, Mr. SMITH of Michigan, Ms. STABENOW, Mr. STUPAK, Mr. TANNER, Mrs. TAUSCHER, Mrs. THURMAN, Mr. UPTON, Mr. WALSH, Mr. WELDON of Florida, and Mr. WELLER):

H. Con. Res. 75. Concurrent resolution expressing the sense of the Congress that States should work more aggressively to attack the problem of violent crimes committed by repeat offenders and criminals serving abbreviated sentences; to the Committee on the Judiciary.

By Mr. SHERMAN (for himself, Mr. BOUCHER, Mr. FROST, and Mrs. CLAYTON):

H. Con. Res. 76. Concurrent resolution expressing the sense of the Congress that any capital gains exclusion on the transfer of a primary residence enacted by the 105th Congress should take effect on January 1, 1997; to the Committee on Ways and Means.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

60. By the SPEAKER: Memorial of the Legislature of the State of Oklahoma, relative to House Concurrent Resolution No. 1013 memorializing Congress to request the Secretary of the U.S. Department of Agriculture to take certain action regarding the Export Enhancement Program; and directing distribution; to the Committee on Agriculture.

61. Also, memorial of the Legislature of the State of Washington, relative to Senate Joint Resolution No. 8008 memorializing the Congress of the United States to enact appropriate legislation to retain the battleship

U.S.S. *Missouri* (BB 63) at a selected site on the mainland; to the Committee on National Security.

62. Also, memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution No. 107HD1 urging the U.S. Congress to proceed with the funding of the new carrier known as CVN-77, and home-porting the ship at Pearl Harbor; to the Committee on National Security.

63. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to a Senate resolution memorializing the Secretary of the U.S. Treasury to prevent Government subsidized foreign competition in the production of U.S. currency paper; to the Committee on Banking and Financial Services.

64. Also, memorial of the Legislature of the State of Montana, relative to House Joint Resolution 18 urging Congress to enact legislation to revise the process by which new drugs, biological products, and medical devices are approved by the U.S. Food and Drug Administration; to the Committee on Commerce.

65. Also, memorial of the House of Representatives of the State of Alabama, relative to House Resolution 288 urging the U.S. Environmental Protection Agency to reaffirm the existing air quality standards for ozone and particulate matter; to the Committee on Commerce.

66. Also, memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 42 urging the Congress of the United States to prohibit the participation of American corporations in the deforestation of tropical rainforests; to the Committee on Commerce.

67. Also, memorial of the Legislature of the State of Washington, relative to House Joint Resolution 4005 requesting that, except for needed buffer zones, the present boundaries of the Department of Energy's Hanford control zone on the Wahluke Slope be reduced to the areas south of the Columbia River and that the Wahluke Slope presently under the custody and control of the Department of energy be transferred in total to the counties of Grant, Franklin, and Adams for the purpose of returning the land to its former agricultural use; to the Committee on Commerce.

68. Also, memorial of the Senate of the State of Georgia, relative to Senate Resolution 205 urging the President and Congress of the United States to support the admission of the Republic of Poland to the North Atlantic Treaty Organization; to the Committee on International Relations.

69. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to House Joint Resolution No. 415 memorializing the Congress of the United States to direct the General Accounting Office to update its 1987 report on Federal grant-in-aid formulas; to the Committee on Government Reform and Oversight.

70. Also, memorial of the Legislature of the State of New Mexico, relative to Senate Joint Memorial 26 requesting the Congress of the United States to support H.R. 260 before Congress to create a Guadalupe-Hidalgo Treaty Land Claims Commission; to the Committee on Resources.

71. Also, memorial of the Senate of the Commonwealth of the Mariana Islands, relative to Senate Resolution No. 10-32 expressing support for Guam's quest for Commonwealth status; to the Committee on Resources.

72. Also, memorial of the General Assembly of the State of Nevada, relative to Assembly Joint Resolution No. 2 urging Congress to amend the Recreation and Public

Purposes Act or to enact other legislation to facilitate the use of Federal land for affordable housing; to the Committee on Resources.

73. Also, memorial of the General Assembly of the State of Rhode Island, relative to a Senate resolution memorializing Congress to enact a constitutional amendment protecting the Nation's natural resources; to the Committee on the Judiciary.

74. Also, memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution 38 urging the Congress of the United States to support the passage of the Streamlined Transportation Efficiency Program for the 21st Century [STEP 21]; to the Committee on Transportation and Infrastructure.

75. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to House Joint Resolution No. 571 memorializing the President and Congress of the United States to provide full Federal funding to replace the Woodrow Wilson Bridge, its interchanges and approaches; to the Committee on Transportation and Infrastructure.

76. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to House Joint Resolution No. 495 memorializing Congress to reauthorize the Federal Surface Transportation Program by replacing outdated formulas with factors reflecting use, such as those identified in STEP 21; providing better equity in the distribution of highway funds to States; and authorizing funding for multimodal transit services and highways; to the Committee on Transportation and Infrastructure.

77. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to House Joint Resolution No. 401 memorializing the Congress of the United States to authorize and fund the construction of a veterans' medical facility in northern Virginia; to the Committee on Veterans' Affairs.

78. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to a Senate resolution memorializing Congress and the President of the United States to reject proposals to consolidate and close veterans hospitals; to the Committee on Veterans' Affairs.

79. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to House Joint Resolution No. 618 memorializing the Congress of the United States to continue the Low Income Housing Tax Credit Program; to the Committee on Ways and Means.

80. Also, memorial of the Legislature of the State of Oklahoma, relative to House Concurrent Resolution No. 1010 encouraging the U.S. Congress not to repeal certain tax incentives on former Indian reservations; encouraging Congress to request the Internal Revenue Service to recognize and comply with certain Federal law and issue certain ruling; and providing for distribution; to the Committee on Ways and Means.

81. Also, memorial of the Senate of the State of Georgia, relative to Senate Resolution 387 strongly urging the United States Congress and the United States International Trade Representative to recognize the economic and environmental benefits of Georgia's magnificent forest resources, strongly urging that the Congress and the United States Trade Representative not rescind the international trade agreement limiting the amount of subsidized Canadian lumber imported duty-free into the United States; to the Committee on Ways and Means.

82. Also, memorial of the House of Representatives of the State of Georgia, relative to House Resolution No. 360 requesting the U.S. Congress to authorize through legislation one or more State pilot projects to ascertain the feasibility of devolving the unemployment insurance system back to State control; to the Committee on Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. YOUNG of Florida introduced a bill (H.R. 1552) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Blue Hawaii*; which was referred to the Committee on Transportation and Infrastructure.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mrs. NORTHUP, Mr. BERRY, Mr. RUSH, Mr. DAVIS of Illinois, Ms. HOOLEY of Oregon, Mr. MALONEY of Connecticut, Mr. CANNON, Ms. RIVERS, Mr. ADAM SMITH of Washington, Ms. LOFGREN, and Mr. ROGAN.

H.R. 18: Mr. SNOWBARGER, Mr. HINCHEY, Mr. ENGEL, and Mr. LEACH.

H.R. 58: Mr. LEWIS of California, Mr. HOEKSTRA, and Mr. WICKER.

H.R. 96: Mr. GOODLING and Mr. McHALE.

H.R. 108: Mr. FILNER, Ms. LOFGREN, Ms. HOOLEY of Oregon, and Mr. ROTHMAN.

H.R. 135: Ms. KILPATRICK, Mr. MARTINEZ, Mr. BLAGOJEVICH, Mr. DOYLE, Mr. BARCIA of Michigan, Mr. MCINTYRE, and Mr. TRAFICANT.

H.R. 144: Mr. SMITH of New Jersey and Mrs. NORTHUP.

H.R. 146: Mr. PARKER and Mr. BURR of North Carolina.

H.R. 209: Mr. FALCOMABAEGA and Mr. LIPINSKI.

H.R. 339: Mr. ADERHOLT.

H.R. 366: Mr. DAVIS of Illinois.

H.R. 382: Mr. ENGEL.

H.R. 383: Mr. FRELINGHUYSEN and Mr. ENGEL.

H.R. 407: Mr. EDWARDS, Ms. VELÁZQUEZ, Ms. STABENOW, Mr. ENGEL, and Mrs. JOHNSON of Connecticut.

H.R. 418: Mr. RILEY and Mr. PASCRELL.

H.R. 446: Mr. SAWYER.

H.R. 457: Mr. KOLBE.

H.R. 475: Mr. COSTELLO, Mr. SISISKY, Mr. PASCRELL, and Mr. LUCAS of Oklahoma.

H.R. 483: Mr. TORRES and Mr. COYNE.

H.R. 500: Mr. HINCHEY and Mr. PAPPAS.

H.R. 519: Ms. CARSON and Mr. HALL of Texas.

H.R. 543: Mr. DAVIS of Illinois, Ms. PRYCE of Ohio, Mr. HOSTETTLER, Mr. PACKARD, Mr. ROTHMAN, Mr. WHITFIELD, Mr. YOUNG of Florida, and Mr. BERMAN.

H.R. 551: Mr. BORSKI.

H.R. 586: Ms. BROWN of Florida, Ms. STABENOW, and Mr. WATTS of Oklahoma.

H.R. 589: Mr. ROHRBACHER.

H.R. 622: Mr. COBLE.

H.R. 630: Mr. RIGGS, Mr. FARR of California, Mr. HORN, and Mr. MILLER of California.

H.R. 695: Mr. MORAN of Virginia, Mr. GALLEGLY, and Mr. CAMP.

H.R. 754: Mr. TORRES.

H.R. 790: Mr. LUCAS of Oklahoma.

H.R. 814: Ms. BROWN of Florida.

H.R. 816: Mr. GREENWOOD.

H.R. 857: Ms. CHRISTIAN-GREEN and Mr.

SNOWBARGER.

H.R. 922: Mr. WELDON of Florida.

H.R. 923: Mr. WELDON of Florida.

H.R. 953: Mrs. LOWEY.

H.R. 965: Mr. WHITE.

H.R. 970: Mr. KIM, Mr. COOKSEY, Mr. LUCAS of Oklahoma, and Mr. BURTON of Indiana.

H.R. 991: Mr. SANDLIN, Mr. PASCRELL, and Mr. BOSWELL.

H.R. 1015: Mr. TIERNEY, Mr. OLVER, and Mr. MCGOVERN.

H.R. 1050: Ms. CHRISTIAN-GREEN.

H.R. 1061: Mr. McHUGH and Mr. McDADE.

H.R. 1076: Mr. ENGEL.

H.R. 1101: Mr. HORN.

H.R. 1134: Mr. PETERSON of Minnesota.

H.R. 1145: Ms. DANNER, Mr. ROYCE, Mr. BACHUS, Mr. SESSIONS, Mr. SOUDER, Mr. SNOWBARGER, Mr. COMBEST, Mr. RYUN, Mr. PAUL, Mr. BRYANT, Mr. CALLAHAN, Mr. WATTS of Oklahoma, Mr. CLEMENT, Mr. WATKINS, and Mr. BARR of Georgia.

H.R. 1168: Mr. LAHOOD, Mr. NETHERCUTT, Mrs. EMERSON, Mr. WICKER, Mr. McHUGH, Mr. SESSIONS, Mr. BLUNT, Mr. BARRETT of Nebraska, Mr. EDWARDS, Mr. HILL, Mr. GILLMOR, Mr. BARTLETT of Maryland, Mr. HOBSON, Mr. SISISKY, Mr. TALENT, Mrs. NORTHUP, Mr. PAXON, Mr. HOLDEN, and Mr. COMBEST.

H.R. 1172: Mr. BILIRAKIS, Mr. MCINTOSH, Mrs. MYRICK, Mr. SHAW, Mr. SHAYS, and Mr. STEARNS.

H.R. 1203: Mr. KIM.

H.R. 1231: Mr. BEREUTER and Mr. FRANK of Massachusetts.

H.R. 1232: Mr. BROWN of California, Ms. ROS-LEHTINEN, and Mr. GALLEGLY.

H.R. 1241: Mr. TURNER, Mr. CONDIT, Mr. BLUMENAUER, and Mr. RIGGS.

H.R. 1245: Ms. RIVERS.

H.R. 1266: Mr. SOLOMON and Mr. SENSENBRENNER.

H.R. 1279: Mr. TOWNS, Mr. DUNCAN, Mr. WATTS of Oklahoma, Mr. PACKARD, Mr. CLEMENT, Mr. FOX of Pennsylvania, Mr. PORTER, and Ms. DANNER.

H.R. 1281: Mr. CONYERS, Mr. SKAGGS, Mr. JACKSON, Ms. KAPTUR, Mr. ABERCROMBIE, Mr. PALLONE, Mr. NADLER, Mr. CLAY, Mr. YATES, Mr. KLECZKA, Mr. McNULTY, Mr. DINGELL, Mr. MILLER of California, Mr. DELLUMS, Mr. CAMPBELL, Mr. HALL of Ohio, Mr. STUPAK, Mr. SABO, Mr. CONDIT, Mr. PASTOR, Mr. EVANS, Mr. HILLIARD, Ms. LOFGREN, Mr. GONZALEZ, and Mr. SAWYER.

H.R. 1321: Mr. BARRETT of Wisconsin.

H.R. 1323: Mr. MCGOVERN.

H.R. 1329: Mr. DELLUMS, Mr. MEEHAN, Mr. FROST, and Mr. DEFazio.

H.R. 1335: Mr. BURTON of Indiana, Ms. CARSON, Mr. CLEMENT, Mr. FATTAH, Mr. FOX of Pennsylvania, Mr. GUTIERREZ, Mr. NEY, Mr. RANGEL, Ms. RIVERS, and Ms. WATERS.

H.R. 1348: Mr. DICKEY, Mr. COBURN, Mr. HOSTETTLER, Mr. HILLEARY, Mr. PITTS, Mr. SNOWBARGER, Mr. DOOLITTLE, Mr. BURTON of Indiana, Mr. GRAHAM, Mr. NORWOOD, Mrs. CUBIN, Mr. SAXTON, Mr. RADANOVICH, and Mr. THORNBERRY.

H.R. 1350: Mr. CAMP.

H.R. 1353: Ms. HOOLEY of Oregon and Mr. MEEHAN.

H.R. 1401: Mr. LEWIS of Georgia and Mrs. TAUSCHER.

H.R. 1415: Mr. RAHALL, Mr. DOOLITTLE, Mr. TURNER, Mr. BOUCHER, Mr. SALMON, and Mr. LIPINSKI.

H.R. 1418: Mr. MEEHAN, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. LAFALCE, Ms. LOFGREN, and Mr. QUINN.

H.R. 1427: Mr. BROWN of California.  
 H.R. 1438: Mrs. MALONEY of New York, Ms. DeLAURO, Mr. GEJDENSON, and Mr. CONYERS.  
 H.R. 1445: Mr. MEEHAN, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. LaFALCE, and Ms. LOFGREN.

H.R. 1474: Mr. MARTINEZ.  
 H.R. 1475: Mr. HOSTETTLER.  
 H.R. 1480: Mr. FROST and Mr. ETHERIDGE.  
 H.R. 1492: Mr. GOODLATTE.  
 H.R. 1503: Mr. TALENT, Mr. DAVIS of Virginia, Mr. ENGLISH of Pennsylvania, and Mr. MCINTOSH.

H.R. 1507: Mr. SPRATT, Mr. DELLUMS, Mrs. MALONEY of New York, Mr. FILNER, Mr. BROWN of California, Mrs. MEEK of Florida, and Ms. ROYBAL-ALLARD.

H.J. Res. 26: Mr. GOODLATTE.

H.J. Res. 54: Mr. CAMPBELL and Mr. MCINTYRE.

H.J. Res. 72: Mr. MEEHAN, Mr. ROYCE, Mr. DUNCAN, Mrs. NORTHUP, Mr. TALENT, and Mr. ENGLISH of Pennsylvania.

H.J. Res. 75: Mr. FRELINGHUYSEN, Mr. MAS-CARA, Mr. CAMPBELL, Ms. SANCHEZ, Mr. EHRLICH, Mr. FROST, Mr. LIPINSKI, Ms. CHRISTIAN-GREEN, Mr. PORTER, Mr. BROWN of Ohio, Mr. DAVIS of Virginia, Mr. BOEHNER, Mr. WHITFIELD, Mr. RADANOVICH, Mr. LATHAM, Mr. HERGER, Mr. HASTINGS of Washington, Mr. BONILLA, and Mr. RYUN.

H.Con. Res. 13: Mr. POMEROY, Mr. EVERETT, Mr. MOLLOHAN, Mr. KLINK, Mr. NEAL of Massachusetts, and Mr. LEWIS of California.

H. Con. Res. 35: Mr. COBURN.

H.Con. Res. 48: Mr. CALLAHAN.

H. Con. Res. 55: Mr. HINCHEY, Mr. VIS-CLOSKEY, Mr. PORTER, and Mr. PAPPAS.

H. Con. Res. 60: Mr. DAN SCHAEFER of Colorado, Mr. LAMPSON, Mr. MCINNIS, Mr. McNULTY, Mr. MCGOVERN, Mr. ADERHOLT, Mr. PORTER, Mrs. NORTHUP, and Mr. JEFFERSON.

H. Con. Res. 64: Mr. PARKER.

H. Con. Res. 65: Mr. LIPINSKI, Ms. DUNN of Washington, Mr. GILMAN, Mrs. MINK of Hawaii, Mr. TIERNEY, Mr. ROTHMAN, Mr. GREEN, Mr. SCARBOROUGH, Mr. FILNER, Ms. KAPTUR, and Mr. DELAHUNT.

H. Con. Res. 68: Mr. LIPINSKI.

H. Res. 23: Mr. HORN, Mr. ENGLISH of Pennsylvania, and Mr. HILL.

H. Res. 104: Mr. MCGOVERN.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of Rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 900: Mr. TRAFICANT.

H.R. 991: Mr. SALMON.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

10. By the SPEAKER: Petition of the Maryland Student Legislature, relative to a resolution concerning the indefinite extension of the Voting Rights Act; to the Committee on the Judiciary.

11. Also, petition of the city of Sonoma, CA, relative to Resolution 20-1997 requesting the 105th Congress to reauthorize Federal funding from section 8 of the Intermodal Surface Transportation Efficiency Act [ISTEA]; to the Committee on Transportation and Infrastructure.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

### H.R. 2

OFFERED BY Mr. NADLER

AMENDMENT No. 52: Page 335, after line 6, insert the following new section:

### SEC. 709. TRANSFER OF SURPLUS REAL PROPERTY FOR PROVIDING HOUSING FOR LOW- AND MODERATE-INCOME FAMILIES.

(a) IN GENERAL.—Notwithstanding any other provision of law (including the Federal Property and Administrative Services Act of 1949), the property known as 252 Seventh Avenue in New York County, New York is authorized to be conveyed under a public ben-

efit discount to a non-profit organization that has among its purposes providing housing for low-income individuals or families provided, that such property is determined by the Administrator of General Services to be surplus to the needs of the government and provided it is determined by the Secretary of Housing and Urban Development that such property will be used by such non-profit organization to provide housing for low- and moderate-income families or individuals.

(b)(1) PUBLIC BENEFIT DISCOUNT.—The amount of the public benefit discount available under this section shall be 75 percent of the estimated fair market value of the property, except that the Secretary may discount by a greater percentage if the Secretary, in consultation with the Administrator, determines that a higher percentage is justified due to any benefit which will accrue to the United States from the use of such property for the public purpose of providing low- and moderate-income housing.

(2) REVERTER.—The Administrator shall require that the property be used for at least 30 years for the public purpose for which it was originally conveyed, or such longer period of time as the Administrator feels necessary, to protect the Federal interest and to promote the public purpose. If this condition is not met, the property shall revert to the United States.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Administrator shall determine estimated fair market value in accordance with Federal appraisal standards and procedures.

(4) DEPOSIT OF PROCEEDS.—The Administrator of General Services shall deposit any proceeds received under this subsection in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949.

(5) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States and to accomplish a public purpose.